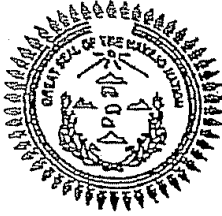


APPENDIX D. AGENCIES' COORDINATION LETTERS



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

HERB YALZE
ATTORNEY GENERAL

M E M O R A N D U M

TO: SAS Reviewers

THROUGH:

Manuel R. Arroyo for
James R. Bellis, Asst. Attorney General
Natural Resources Unit, Dept. of Justice

FROM:

Raymond C. Etcetty, Jr.
Raymond C. Etcetty, Jr., Staff Attorney
Natural Resources Unit, Dept. of Justice

DATE: April 1, 1998

SUBJECT: SAS No. DNR-8426: Proposed Resolution of the Resources Committee Approving Amendments to the Right-of-Way Granted to New Mexico State Highway and Transportation Department by Resolution No. RCJY-162-97

The Department of Justice has reviewed the above-referenced SAS document, and has the following concerns and recommendations:

1. As a result of a 1997 U.S. Supreme Court case, it is imperative that jurisdictional language be placed within terms and conditions of the grant of right-of-way to the State of New Mexico. See comment no. 3 below for jurisdictional language. The jurisdictional language would preserve the Navajo Nation's assertion that it retains full legislative, executive and legislative jurisdiction upon state rights-of-way within the Navajo Nation.

On April 28, 1997, the U.S. Supreme Court in William Strate v. A-1 Contractors, 137 L.Ed. 2d 661 (1997), decided a case involving a traffic accident upon a state right-of-way running through an Indian Reservation. Through this decision, the U.S. Supreme Court addressed the question of whether an Indian tribe still possessed regulatory and adjudicatory authority over a state right-of-way that runs through Indian land. The State of New Mexico interprets this decision to mean that unless an Indian tribe expressly reserves a right to exercise dominion or control over a

P.O. Drawer 2010 • Window Rock, AZ 86515 • (520) 871-6931 • 6934 • FAX No. (520) 871-6177

Memorandum to: SAS Reviewers
RE: SAS No. DNR-8426:
April 1, 1998
Page 2

state right-of-way, the state has exclusive jurisdiction over the right-of-way. See attachment document (New Mexico position paper regarding civil jurisdiction of state highway rights-of-way crossing Indian lands.) As a result of this case and New Mexico's interpretation of it, it is important that the Navajo Nation insert jurisdictional language into the terms and condition document to preserve the Nation's jurisdiction. If New Mexico's position is also adopted by the States of Arizona and Utah, and recognized by the federal courts, the Navajo Nation would have no authority to enforce any of its civil and criminal laws upon state rights-of-way within the Navajo Nation. These highways include at the very least the following:

- (1) Within Arizona, Highway 89 extends through Cameron to Page, Highway 160 extends from Tuba City to Teec Nos Pos, Highway 181 extends from Navajo (Arizona) to Mexican Hat, and Highway 264 extends through Window Rock to Tuba City.
- (2) Within New Mexico, Highway 666 extends from Ya-Ta-Hey to Shiprock, Highway 550 extends from Shiprock to Hogback, and Highway 506 extends from Beclabito to Shiprock.
- (3) Within Utah and Arizona, Highway 163 extends from Kayenta into Utah.

If the States (and potentially Counties) have exclusive jurisdiction upon these rights-of-way, while the Navajo Nation has jurisdiction upon trust land adjacent to these rights-of-way, the practical effect of this arrangement is that the Navajo Nation would be creating a checkerboard jurisdictional problem through the entire Navajo Nation.

The importance of the Navajo Nation retaining its adjudicatory and regulatory authority upon state rights-of-way is as follows: If the Navajo Nation does not preserve its adjudicatory authority upon these rights-of-way, the Navajo people could not resolve disputes that occur on these rights-of-way using Navajo law in the Navajo Nation Courts, which includes the Navajo Peacemaker Court, but would be forced to resolve the dispute using state laws in off-reservation state or county courts.

Preserving the Navajo Nation's regulatory authority preserves the Nation's inherent sovereign right to regulate activities of Navajos and non-Navajos upon the right-of-way. Such activities include taxation, application of Navajo preference laws, issuing speeding citations, conducting DWI check points, and

Memorandum to: SAS Reviewers
RE: SAS No. DNR-8426:
April 1, 1998
Page 3

seizing livestock upon rights-of-way. If the Navajo Nation does not retain and loses this authority upon rights-of-way, the entire Navajo Nation Motor Vehicle Code, Title 12 of the Navajo Nation Code would be unenforceable upon these rights-of-way. Navajo police officers would have no authority to issue citations and make arrests necessary to protect the health and safety of the Navajo people.

2. In order to protect the Navajo Nation's jurisdiction upon the right-of-way granted to the State of New Mexico, the Department of Justice recommends that the following jurisdictional language be placed in the terms and conditions document of the right-of-way:

- q. The Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as may be hereafter in force and effect.
- c. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or in part by the Navajo Nation for any of the following causes:
 - 1. Failure to comply with any terms or conditions of the grant or of applicable laws or regulations;
 - 2. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period;
 - 3. An abandonment of the right-of-way; and
 - 4. The use of lands for any purpose inconsistent with the purpose for which the right-of-way is granted.
- s. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.

- t. Holding over by the Grantee after the termination of the right-of-way shall not constitute a easement or extension thereof or give the Grantee any rights hereunder or in or to the land or to any improvements located thereon.
- u. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any buildings and other improvements erected or placed thereon.
- v. ~~Except~~ as may be prohibited by applicable Federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
- w. ~~The right-of-way and all rights and privileges appurtenant thereto are granted subject to the Navajo Nation's express reservation of its full, complete and undiminished legislative, executive and judicial jurisdiction over the right-of-way and the lands through which the right-of-way extends, including without limitation over any and all activities conducted or otherwise occurring thereon, regardless of whether said jurisdiction shall be deemed to arise from the Navajo Nation's capacity as a landowner, from its capacity as a government, or otherwise. The Navajo Nation hereby expressly reserves and retains its full, complete and undiminished legislative, executive and judicial jurisdiction over the right-of-way and the lands through which the right-of-way extends, including without limitation over any and all activities conducted or otherwise occurring thereon, regardless of whether said jurisdiction shall be deemed to arise from the Navajo Nation's capacity as a landowner, from its capacity as a government, or otherwise. The consent of the Navajo Nation to the grant of the right-of-way is expressly made subject to said reservation of said jurisdiction, and the Navajo Nation expressly does not consent to the grant of the right-of-way except upon and subject to said reservation of said jurisdiction. Nothing contained herein or in the right-of-way or the grant thereof shall be construed to waive, diminish or otherwise adversely~~

Memorandum to: SWS Follow-up
RE: SAS No. DNR-8126:
April 1, 1998
Page 5

affect the said jurisdiction of the Navajo Nation over said lands or activities.

3. In the future, it is the Department of Justice's recommendation that all future rights-of-way to the States of Arizona, New Mexico and Utah contain jurisdictional language that preserves the Navajo Nation's jurisdiction. It is also the Department of Justice's recommendation that the Navajo Nation begin negotiating an Intergovernmental Agreement with the surrounding States that defines and preserves the Navajo Nation's jurisdiction upon these state rights-of-way.

4. Finally, it is important to note the right-of-way being granted to the State of New Mexico is a right-of-way that runs through the aboriginal land reserved by the Navajo people through the Navajo Treaty of 1868. Given that this land was obtained through the Treaty of 1868, the Navajo Nation should not easily give up its jurisdiction over rights-of-way running through this land.

If you have any questions, please call me at 871-6931.



THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

2221 WEST GREENWAY ROAD, PHOENIX, AZ 85023-4399
(602) 942-3000 • WWW.AZGFD.COM

GOVERN
JANE DEL
COMMISSIONERS
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DIRECTOR
DUANE L. SHROUFE
DEPUTY DIRECTOR
STEVE K. FERRELL



December 20, 2000

Ms. Barb Garrison
Senior Biologist
Logan Simpson Design, Inc.
51 West Third St.
Suite 450
Tempe, AZ 85281

Re: Special Status Species Information for US 89 between MP 442 and 484:
TRACS No. 89 CN 444 H5172 01L

Barb
Dear Ms. Garrison:

The Arizona Game and Fish Department (Department) has reviewed your letter, dated December 12, 2000, regarding special status species information associated with the above-referenced project area. The Department's Heritage Data Management System (HDMS) has been accessed and current records do not indicate the presence of any Endangered, Threatened, or other special status species in the project vicinity. In addition, this project does not occur in the vicinity of any proposed or designated Critical Habitats.

The Department's HDMS data are not intended to include potential distribution of special status species. Arizona is large and diverse with plants, animals, and environmental conditions that are ever changing. Consequently, many areas may contain species that biologists do not know about or species previously noted in a particular area may no longer occur there. Not all of Arizona has been surveyed for special status species, and surveys that have been conducted have varied greatly in scope and intensity.

Making available this information does not substitute for the Department's review of project proposals, and should not decrease our opportunities to review and evaluate new project proposals and sites. The Department is also concerned about other resource values, such as other wildlife, including game species, and wildlife-related recreation. The Department would appreciate the opportunity to provide an evaluation of impacts to wildlife or wildlife habitats associated with project activities occurring in the subject area, when specific details become available.

AN EQUAL OPPORTUNITY REASONABLE ACCOMMODATIONS AGENCY

Ms. Barb Garrison
December 20, 2000
2

If you have any questions regarding the attached species list, please contact me at (602) 789-3618. General status information and county distribution lists for special status species are also available on our web site at http://www.azgfd.com/frames/fishwild/hdms_site/Home.htm. In addition, the Navajo Natural Heritage Program may have information for the area that the HDMS does not currently have.

Sincerely,



Sabra S. Schwartz
Heritage Data Management System, Coordinator

SSS:ss

Attachment

cc: Bob Broscheid, Project Evaluation Program Supervisor
Rick Miller, Habitat Program Manager, Region II

AGFD# 12-15-00 (04)



THE NAVAJO NATION

P. O. BOX 8000 • WINDOW ROCK, ARIZONA 86615 • (520) 871-6000

KELSEY A. BEGAYE
PRESIDENT

TAYLOR MCKENZIE, M.D.
VICE PRESIDENT

January 03, 2001

Robert E. Hollis, Division Administrator
U.S. Department of Transportation
Federal Highway Administration
Arizona Division
234 N. Central Avenue, Suite 330
Phoenix, Arizona 85004

SUBJECT: Road Improvements to US 89 between (MP) 442 (Antelope Hills) and MP 484 (Junction of US 89 and US 160), in Coconino County, Arizona.

Project No.: HA-AZ

STP-089-A()

TRACS No. 89 CN 444 H5172 01L

US 89; Antelope Hills to Jct. US 160

Mr. Hollis:

The following information on species of concern¹ is provided in response to your 18 December 2000 request concerning the subject project, which consists of the Federal Highway Administration (FHWA), in association with the Arizona Department of Transportation (ADOT) conducting road improvements to US 89 between Milepost (MP) 442 (Antelope Hills) and MP 484 (Junction of US 89 and US 160), in Coconino County, Arizona.

At this time, the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern occurring on the project sites.

Each 7.5-minute quadrangle containing project boundaries is addressed separately below. These species lists are quadrangle-specific rather than project-specific. Potential for species has been determined primarily on quadrangle-wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project sites.

A total of 23 species are identified in the quadrangle-specific lists. They are:

1. Amsonia peeblesii (Peebles' blue-star).

¹"Species of concern" include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate or NESL group 4 status; please be aware of these species during surveys and inform the NFWD of observations. Documentation that these species are more numerous or widespread than currently known, and addressing these species in project planning and management is important for conservation and may contribute to ensuring they will not be uplisted in the future. Species without ESA or NESL legal protection (e.g., NESL group 4 species) are only included in responses on an irregular basis and may not be included in this response. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

2. Amsonia tomentosa var. stenophylla (narrowleaf blue star).
3. Antilocapra americana (pronghorn); NESL group 3.
4. Aquila chrysaetos (Golden Eagle); NESL group 3; MBTA; EPA.
5. Astragalus sophoroides (Tuba City milkvetch); NESL group 4.
6. Buteo regalis (Ferruginous Hawk); NESL group 3; MBTA.
7. Catostomus discobolus (bluehead sucker); NESL group 4.
8. Catostomus latipinnis (flannelmouth sucker).
9. Cinclus mexicanus (American Dipper); NESL group 3; MBTA.
10. Cymopterus megacephalus (bighead water parsnip).
11. Empidonax traillii eximius (Southwestern Willow Flycatcher); NESL group 2; ESA endangered; MBTA.
12. Errazurizia rotundata (round dunebroom); NESL group 4.
13. Falco peregrinus (Peregrine Falcon); NESL group 4; MBTA.
14. Gila cypha (humpback chub); NESL group 2; ESA endangered.
15. Haliaeetus leucocephalus (Bald Eagle); ESA threatened; MBTA; EPA.
16. Lampropeltis triangulum (milk snake); NESL group 4.
17. Mustela nigripes (black-footed ferret); NESL group 2; ESA endangered. Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.
18. Perognathus amplus ammodytes (Navajo pocket mouse).
19. Pediocactus peeblesianus var. flocksieniae (Flocksien plains cactus); NESL group 3; ESA candidate.
20. Phacelia welshii (Welsh phacelia); NESL group 4.
21. Rana pipiens (northern leopard frog); NESL group 2.
22. Rhinichthys osculus (speckled dace).
23. Xytrachen texanus (razorback sucker); NESL group 2; ESA endangered.

SHADOW MTN. WELL, AZ QUADRANGLE

Project Site: Beginning of MP 484

At this time, the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern occurring on the project sites.

Species of concern known to occur within one mile of the project sites include:

1. Astragalus sophoroides - 1941 Record.

Species of concern known to occur within three miles of the project sites include:

2. Amsonia tomentosa var. stenophylla
3. Cymopterus megacephalus

Additional species of concern with potential to occur on the 7.5-minute quadrangle include:

4. Aquila chrysaetos
5. Buteo regalis
6. Empidonax traillii eximius
7. Mustela nigripes
8. Errazurizia rotundata

CAMERON NORTH, AZ QUADRANGLE
Project Sites: MP 484 to MP 442

Species of concern known to occur on or near the project sites include:

1. Astragalus sophoroides
2. Perognathus amplus ammodytes

Additional species of concern with potential to occur on the 7.5-minute quadrangle include:

3. Antilocapra americana
4. Aquila chrysaetos
5. Buteo regalis
6. Catostomus latipinnis
7. Cinclus mexicanus
8. Empidonax traillii extimus
9. Falco peregrinus
10. Gila cypha
11. Haliaeetus leucocephalus
12. Mustela nigripes
13. Rana pipiens
14. Xyrauchen texanus
15. Amsonia peeblesii

CAMERON SOUTH, AZ QUADRANGLE
Project Sites: MP 484 to MP 442

Species of concern known to occur on or near the project sites include:

1. Cymopterus megacephalus
2. Lampropeltis triangulum - 1951 Record.
3. Perognathus amplus ammodytes

Species of concern known to occur within one mile of the project sites include:

4. Amsonia peeblesii
5. Amsonia tomentosa var. stenophylla
6. Pediocactus peeblesianus var. ficksianus - 1962 Record.
7. Phacelia welschii
8. Rana pipiens - 1929 Record.

Additional species of concern with potential to occur on the 7.5-minute quadrangle include:

9. Antilocapra americana
10. Aquila chrysaetos
11. Buteo regalis
12. Catostomus discobolus
13. Cinclus mexicanus
14. Empidonax traillii extimus

15. Falco peregrinus
16. Haliaeetus leucocephalus
17. Mustela nigripes
18. Rhinichthys osculus

GRAY MOUNTAIN, AZ QUADRANGLE

Project Sites: MP 484 to MP 442

Species of concern known to occur on or near the project sites include:

1. Cymopterus megacephalus - 1941 Record.
2. Phacelia welshii

Species of concern known to occur within one mile of the project sites include:

3. Amsonia peeblesii - 1979 Record.
4. Pediocactus peeblesianus var. fickelschnei

Additional species of concern with potential to occur on the 7.5-minute quadrangle include:

5. Antilocapra americana
6. Aquila chrysaetos
7. Buteo regalis
8. Mustela nigripes

CAMPBELL FRANCIS WASH, AZ QUADRANGLE

Project Sites: MP 484 to MP 442

At this time, the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern occurring on the project sites.

Additional species of concern with potential to occur on the 7.5-minute quadrangle include:

1. Antilocapra americana
2. Aquila chrysaetos
3. Buteo regalis
4. Mustela nigripes
5. Pediocactus peeblesianus var. fickelschnei

EAST OF SP MOUNTAIN, AZ QUADRANGLE

Project Sites: MP 484 to MP 442

At this time, the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern on this quadrangle. Out of Navajo Nation Boundary.



IN REPLY REFER TO:

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

Navajo Area
Western Navajo Agency
P.O. Box 127
Tuba City, Arizona 86045

JAN 18 2001

Michael Shirley, Senior Environmental Planner
Logan Simpson Design, Inc.
51 West Third Street, Suite 450
Tempe, AZ 85281

RE: US 89, Antelope Hills to Junction US 160, Design Concept Report and Environmental Assessment, Federal Project No. STP-089-A(), TRACS No. 89 CN 444 H5172 01L

Dear Mr. Shirley:

In reference to the above subject project our Branch of Roads Office submits these comments. Please find enclosed the map of the area. On the bypass for the Gray Mountain Business area we feel that it may deter the tourist away from the businesses at that locale. The design of this bypass should be made with as little deterrence as possible.

At the Federal Highway 89 and State Highway 160 junction we recommend considering the inclusion of the turnouts to Bureau of Indian Affairs Routes 6135 and 6134, located south and north respectively. The Bureau of Indian Affairs Roads Design Standards guidelines which we respectfully recommend are as follows:

1. A 28 feet wide Driveway with a 50 feet Radii.
2. A 4 Unit Cattle guard at the right-of-way fence.
3. A 30 inch (minimum) Corrugated Steel Pipe Culvert with End sections fitted in length to the designed road section or turnout lane.
4. A 2 inch Asphalt driveway surface with a 6 inch base for commercial turnouts.

Our BIA system roads intersect at these locations along Highway 89: Route 6730 mile-post 467.5 east, Route. 6135 MP 479.2 west; and Route. 6134 MP 480.2 west.

If you have any questions, please call the Agency Road Engineer office at (520) 283-2243.

Sincerely,

ACTING
Agency Road Engineer

Enclosure



The Coconino County



Sheriff's Department

JOE RICHARDS.

SHERIFF

January 22, 2001

Mr. Michael Shirley, Sr. Environmental Planner
Logan Simpson Design, Inc.
51 West Third Street, Suite 450
Tempe, AZ 85281

Dear Mr. Shirley,

In response to your letter of January 12th, I offer the following comments.

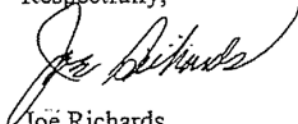
U.S. 89 north of Flagstaff has been one of the most dangerous highways in the state. It's dangerous because it is a two-lane highway, there are very few passing zones, many blind spots, and the volume of traffic has consistently increased over the years. There have been in excess of 20 deaths as a result of traffic fatalities in this particular region of the highway, and anything that could improve it would certainly be a benefit to life safety issues.

On the second issue, my comments regarding the bypass of Gray Mountain Trading Post: this is a historical trading post that has had a significant business investment over several decades. It has a motel, gas station, convenience stores, trading post, and a local church. It has served as an outlet for local residents and tourists traveling through this area. I am sure there would be a substantial economic impact from the bypassing of this community.

The last point I wish to make is on the interchange of U.S. 89 and State Route 160. To reconfigure this so that it would conform to a standard diamond interchange would benefit the users and enhance public safety. This intersection has been the scene of many serious accidents and fatalities, and any improvement that enhances public safety would be very beneficial.

I or my representative will try to attend one of the hearings scheduled in northern Arizona later in the month. If you need any further information, please feel free to call me.

Respectfully,


Joe Richards
Sheriff

POST OFFICE BOX 39



FLAGSTAFF, ARIZONA 86002

(520) 774-4523

Jane Dee Hull
Governor

Michael E. Anable
State Land
Commissioner

Arizona State Land Department

1616 West Adams Street Phoenix, AZ 85007 www.land.state.az.us



January 25, 2001

Logan Simpson Design, Inc.
51 West Third Street, Ste. #450
Tempe, AZ 85281

Attn: Michael Shirley, S.E.P.

Re: U.S. 89; Antelope Hills to Junction U.S. 160 - Federal Project No. STP - 089-A
Tracts No. 89 CN 444 H5172 01L

Dear Mr. Shirley:

The Arizona State Land Department acknowledges receipt of the referenced notice and has reviewed the same.

The Department does not see any problem with the proposed project.

Future notices of this type should be directed to:

Ms. Sheila McCafferty, Mgt.
SLD ROW Section
1616 W. Adams
Phoenix, AZ 85007

Thank you for the opportunity to comment.

Sincerely,

Richard B. Oxford
Director, Operations

RBO/dmc

"Serving Arizona's Schools and Public Institutions Since 1915"



THE NAVAJO NATION Department of Transportation

P.O. BOX 4620 • WINDOW ROCK, ARIZONA 86515 • PH: (520) 871-6498 • FAX: (520) 871-7987

CELSEY A. BEGAYE
PRESIDENT

TAYLOR MCKENZIE, M.D.
VICE-PRESIDENT

12 February 2001

Jackie Noblitt, Project Manager
Stanley Consultants, Inc.
2929 East Camelback Road, Suite 130
Phoenix, AZ 85016

RE: US 89; Antelope Hills to Junction US 160
TRACS # 89 CN 444 H5172 01L

We appreciate this opportunity to comment on the US 89 Roadway Improvement Study. Following is a list of concerns and comments relative to this project.

1. Navajos living within the northwestern part of the Navajo Nation commute to Flagstaff for various purposes, and the route used for these trips is US 89. Our concern is the high rate of speed prevalent on this road. Navajos living on either side of US 89 enter on and exit off this highway. For the safety of the public, we ask that planners and designers take into consideration the possibility of establishing turning lanes for vehicles preparing to move across the opposing traffic to exit on the other side of the right-of-way. Shoulders along the right side of the road should also be wide enough for vehicles to turn off and slow down before exiting the right-of-way. Turning lanes will allow vehicles exiting the right-of-way to move out of the way of fast moving vehicles passing through the area.
2. There are several places along US 89 where arts & crafts vendors display their wares. Places such as these are also a concern due to the high volume of traffic moving through the area. We request that safe exit lanes to these vendor stands be considered during the planning and design phase. The Navajo Nation's Department of Economic Development should also be consulted regarding vendors along US 89.
3. We are concerned about soil erosion occurring as a result of proposed improvements to US 89. Especially in this region of the Navajo Nation where vegetative cover is limited. A severe monsoonal thunder storm can change the landscape within minutes. Concerns such as placing culvert pipes below the natural gradient of the surrounding terrain. Placing culverts too low can cause head-cutting to develop and extend out beyond the right-of-way. Channeling drainages together increases water volume and velocity thereby increasing soil erosion. Rain water run-off should be spread out as much and as soon as possible. Channeling drainages together also affects naturally established watersheds. Designers and planners must strive to maintain established watersheds. Best management practices for erosion and sedimentation control should be diligently followed during the planning, construction, and reclamation phases.
4. Two of the drawings with "Desirable Cross Section" titles indicate desirable right-of-ways. One drawing indicates acquiring an additional 92 feet right-of-way and the other indicates an additional 133 feet acquisition. You need to be aware that the Navajo Nation has reviewed their policy on granting right-of-ways. Attached is a copy of a letter from the Navajo Nation Department of Justice to all tribal offices reviewing documents pertaining to right-of-ways on the Navajo Nation. The

Letter to: Jackie Noblitt, Stanley Consultants, Inc.
RE: US89; Antelope Hill to Jct. US160. TRACS No. 89 CN 444 H5172 01L
12 February 2001
Page 2

Arizona Department of Transportation should consult the Navajo Nation Department of Justice regarding acquiring right-of-ways on the Navajo Nation.

Again, we appreciate the opportunity to be involved. We ask that we remain on your mailing list for future developments. If you need additional information, we can be reached at 520/871-6498, or through the address listed in the letterhead at the top of this letter.


Gene Martinez
Environmental Specialist

Attachment (1)

c: file
Lee Bigwater, Acting Director, NDOT
Sam Johns, ASO II, Project Development Section, NDOT

**NAVAJO REGIONAL OFFICE
BRANCH OF ENVIRONMENTAL SERVICES
LETTER OF TRANSMITTAL**

February 15, 2001

Michael Shirley, Senior Environmental Planner
Logan Simpson Design, Inc.
51 West Third Street, Suite 450
Tempe, Arizona 85281

RE: US 89; Antelope Hills to Jct. US 160
Federal Project No. STP-089-A()
TRACS No. 89 CN 444 H5172 01L

The Navajo Regional Office , Branch of Environmental Services, is in receipt of your letter of January 12, 2001. The letter, with attachments, addresses the US 89; Antelope Hills to Jct. US 160 Federal Project No. STP-089-A() TRACS No. 89 CN 444 H5172 01L. We understand the potential road improvements to US 89, and a draft environmental assessment (EA) document is proposed for the project. Enclosed for your reference are sources for natural resource information, consultation guidelines, and EA format used by the Navajo Regional Office (NRO). We request a draft and final copy of the EA for our file. The Branch of Environmental Services will make a determination of significant impact.

It is hoped that your proposed environmental document is well-written; provides a useful picture of the purpose and need of the project; selects a preferred alternative from a reasonable range of action alternatives; describes the existing conditions in the affected environment; comprehensively evaluates the potential environmental impacts; and prescribes mitigation measures for each impact.

We appreciate your initial inquiry. Should you require additional information or clarification on the subject matter, please, contact or leave message for Mr. Leonard Robbins, Navajo Regional NEPA Coordinator, at (505)863-8286.


Navajo Regional NEPA Coordinator



United States
Department of
Agriculture

Forest
Service

Coconino
National Forest,
Supervisor's Office

2323 E. Greenlaw Lane
Flagstaff, AZ 86004-1810
Phone: (520) 527-3600
Fax: (520) 527-3620

File Code: 2730

Date: March 14, 2001

Michael Shirley
Logan Simpson Design Inc.
51 West Third Street, Suite 450
Tempe, AZ 85281

RE: U. S. 89; Antelope Hills to Jct. US 160, TRACS No. 89 CN 444 H5172 01L

Dear Mr. Shirley:

This letter is in response to your request for input into the Design Concept Report and Environmental Assessment for potential road improvements to US 89 north of Flagstaff.

This project appears to involve land immediately adjacent and north of the boundary of the Coconino National Forest, consequently I have no jurisdiction over potential resource issues associated with this proposal. The highway to the south of your project area on National Forest land has recently been improved to four lanes divided. The final design of this portion of the highway, according to ADOT, is consistent with the long-range goal for US 89 to be four lanes to the junction of US 260. I would hope that future design of highway improvement projects north of the Forest boundary be consistent with the recent improvements and consider the long-range goals for the highway that were previously identified.

There was a tremendous amount of environmental information gathered and analyzed for the recent project crossing National Forest lands south of this project area that may be of some use for this analysis. For further information and assistance, contact Ken Jacobs at the Mormon Lake Ranger Station, 520-214-2464.

Sincerely,


JIM GOLDEN
Forest Supervisor



Caring for the Land and Serving People

Printed on Recycled Paper





THE NAVAJO NATION

P. O. BOX 9000 • WINDOW ROCK, ARIZONA 86515 • (520) 871-6000

KELSEY A. BEGAYE
PRESIDENT

TAYLOR McKENZIE, M.D.
VICE PRESIDENT

Mike Myers
Logan Simpson Design, Inc.
51 W. 3rd St., Suite 450
Tempe, AZ 85281

July 12, 2001

Dear Mike Myers:

As per your request for further information, attached you will find 10 copies of USGS 7.5 min. maps detailing the locations of rare plant populations along the US HWY 89, from south of Gray Mountain to north of the HWY 89/HWY 162 junction. The codes are as follows:

PHWE = *Phacelia welshii*

CYME = *Cymopterus megacephalus*

ASSO = *Astragalus sophoroides*

ASBE = *Astragalus beathii*

AMPE = *Amsonia peeblesii*

AMTOST = *Amsonia tomentosa* var. *stenophylla*

PEPEFI = *Pediocactus peeblesianus* var. *peeblesianus* Fickeisen

OPNI = *Opuntia nicholii*

ERRO = *Errazurizia rotundata*

The Navajo Natural Heritage Program is not really concerned about the following species: PHWE (G4), CYME (not listed), OPNI (not listed), AMTOST (not listed). We have enough information on these species to know that their existence on Navajo is not threatened by this road improvement project.

Although a survey is not required for ASSO and AMPE (both G4) we would appreciate if known population could be avoided. Potential was identified for ERRO (G4). The closest known population for this species is ca. 1 mile east of HWY 89, near N23. A survey for this species is not required by our department, but would be appreciated. The map also points out potential habitat for *Puccinellia parishii* (G4). This is a rare species known from alkaline seeps and springs in Hamblin Wash just N of your project. If your project impacts Hamblin Wash, a survey for this species would be appreciated.

I also added *Astragalus beathii* to the list of species of concern. Although not listed, this is a rare milk-vetch only known to exist along US HWY 89, HWY 64, and HWY 160, in Coconino County, AZ. No systematic surveys have been conducted off these highways. Observations however indicate that this species is uncommon off the roadsides. A road project such as the improvement of US HWY 89 could cause

considerable impacts on this species, causing it to be listed in the future. Our program has only one population mapped along HWY 89. However, the NAU herbarium has seven collections of *Astragalus beathii*, most of which are from the vicinity of Cameron. I have also personally observed it at the junction of HWY 89 & 160, east side of the road. If it is possible, we would appreciate if you could survey for this species in April of next year.

There are several locations for PEPEFI in the vicinity of Gray Mountain. This is a G3 species and also a federal Candidate for listing. A survey for this species will be necessary and should be conducted during the flowering/fruiting season in April. All the G4 plants mentioned above as well as *Astragalus beathii* could be surveyed for at the same time as you need to survey for PEPEFI.

I hope this will help you with your assessment of impacts on biological resources along Hwy 89. Please contact me at 520-523-7242 if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Daniela Roth". The signature is written in dark ink and is positioned above the printed name.

Daniela Roth, Botanist, Navajo Natural Heritage Program



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ARIZONA-NEVADA AREA OFFICE
3636 NORTH CENTRAL AVENUE, SUITE 760
PHOENIX, ARIZONA 85012-1936

REPLY TO

October 30, 2001

Office of the Chief
Regulatory Branch

Mr. Justin White
NEPA Planner
Arizona Department of Transportation
Environmental Planning Group
205 South 17th Avenue, Room 213E
Phoenix, Arizona 85007-3212

File Number: 2001-01457-CJL

Dear Mr. White:

Reference is made to your letter of August 2, 2001 in which you inquired as to the jurisdictional limits of Section 404 of the Clean Water Act for the various waters at (Sections 3, 10, 15, 16, and 21, T25N, R8E; Sections 2, 11, 14, 15, 22, 27, and 34, T26N, R8E; Sections 13, 24, 25, 26, and 35, T27N, R8E; Sections 6, 7 and 18, T27N, R9E; Sections 4, 9, 16, 20, 21, 29, 31, and 32, T28N, R9E; Sections 27, 33, and 34, T29N, R9E), near Tuba City, Coconino County, Arizona.

The enclosed aerial photograph delineates the waters of the United States, including wetlands, regulated by Section 404 of the Clean Water Act. This approved jurisdictional determination will remain in effect for five years from the date of this letter unless an unusual flood event occurs. After this five-year period or after an unusual flood event alters stream conditions, the Corps of Engineers reserves the authority to retain the original jurisdictional limits or to establish new jurisdictional limits as conditions warrant.

Each water of the United States herein delineated is an interstate water or a water that is tributary to an interstate water. The Section 404 jurisdictional limit for a water of the United States is defined at 33 CFR Part 328. The jurisdictional limit for a non-tidal water of the United States is determined by the jurisdictional wetland boundary and/or the ordinary high water mark. The jurisdictional limit of a wetland is determined in accordance with the Corps of Engineers 1987 Wetlands Delineation Manual. Otherwise, presence of the indicators stated in the definition of ordinary high mark (33CFR 328.3(e)) are used to establish the jurisdictional limit of a water of the United States. The basis of this jurisdictional determination is shown on the enclosed checklist.

Any discharge of dredged or fill material within the designated jurisdictional area requires a Section 404 permit from the Corps of Engineers. The Corps of Engineers emphasizes avoidance of the delineated jurisdictional area. Please review this delineation and evaluate your proposed activity to ensure that avoidance of the jurisdictional area is given full consideration in your design. If all discharges of dredged or fill material occur outside the designated jurisdictional area, no Section 404 permit is required. If avoidance is not practicable, please reference File Number 2001-01457-CJL when submitting your Section 404 permit application to the Corps of Engineers. Please be advised that your application needs to substantiate that avoidance of designated jurisdictional areas is not practicable and substantiate that impacts to waters of the United States have been minimized.

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process for jurisdictional determinations which is fully described at 33 CFR Part 331. The Administrative Appeal Process for jurisdictional determinations is diagrammed on the enclosed Appendix C. If you decide not to accept this approved jurisdictional determination and wish to provide new information please send the information to this office. If you do not supply additional information you may appeal this approved jurisdictional determination by completing the attached "Notification of Administrative Appeal Options and Process and Request for Appeal" form and submitting it directly to the Appeal Review Officer at the address provided on the form.

The receipt of your letter is appreciated. If you have questions, please contact Michele Kogl at (602) 640-5385 x254.

Sincerely,



Cindy Lester
Chief, Arizona
Regulatory Branch

Enclosure(s)

Copies Furnished:
(Without Enclosures)

Mr. Tom Molt
Logan Simpson Design Inc.
51 W. Third Street, Suite 450
Tempe, Arizona 85281



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
ARIZONA DIVISION
234 N. Central Avenue, Suite 330
Phoenix, AZ. 85004
December 6, 2001

IN REPLY REFER TO
HA-AZ
STP-089-C(AEA)
089 CN 441 H5172 01L
SR 89; Antelope Hills – Junction US 60

Mr. Malcolm Bowekaty
Governor
Pueblo of Zuni
P.O. Box 339
Zuni, NM 87327

Dear Mr. Bowekaty:

In order to improve traffic and safety conditions, the Federal Highways Administration (FHWA) and the Arizona Department of Transportation (ADOT) are proposing to widen SR 89 along a portion approximately 43 miles long between Antelope Hills and the junction with US 160 near Cameron. The area of potential effect (APE) is defined as the existing 400-foot wide corridor of SR 89 right-of-way (ROW) between MP 441.5 and 484.5. The land is owned by the Navajo Nation, the Arizona State Land Department (ASLD), the National Park Service (NPS) - Wupatki National Monument, and ADOT. The design details of the proposed project are preliminary but include highway widening, the construction of additional traffic lanes, new intersections and the possibility of bypass segments. No new ROW is currently proposed for this project.

This project qualifies for Federal-aid funding and therefore is considered an undertaking subject to review under Section 106 of the National Historic Preservation Act. Consulting parties identified for this project are FHWA, ADOT, ASLD, NPS, the Arizona State Historic Preservation Office (SHPO), the Arizona State Museum (ASM), the Fort Mojave Indian Tribe, the Havasupai Tribe, the Hopi Tribe, the Hualapai Tribe, the Kaibab-Paiute Tribe, the Navajo Nation, and the Pueblo of Zuni. The purpose of this letter is to invite you to consult with FHWA about this undertaking, to provide you with information about this project, and to ask you to provide FHWA with your comments. In particular, FHWA is requesting information regarding any concerns the Pueblo of Zuni may have about sites of religious or cultural significance within the project area.

Logan Simpson Design, Inc. conducted a cultural resources survey that is described in the enclosed report *-A Cultural Resources Survey of 935 Acres for Future Improvements to the US 89 Travel Corridor Between Antelope Hills and Cameron (Mileposts 442.30 to 465.39), Coconino County, Arizona* (Courtright and Lonardo 2001). This survey identifies the existence of 28 historic properties, 54 Isolated Occurrences, and 24 Road Side Memorials. Isolated

Occurrences described in this and the following reports are not Register eligible properties and field recording has exhausted their information potential. Likewise, the Roadside Memorials are not Register eligible properties and do not require avoidance or preservation, although we do recommend they be treated with respect and relocated if they cannot be avoided. The 28 historic properties include primarily a number of prehistoric archaeological sites, the historic alignment of US 89 with associated road features, and two relatively recent structure complexes associated with habitation and pastoral land use. In addition, an ethnographic study would be undertaken in the near future and reports of this study will be forwarded to interested parties.

Sites WS 34, WS 2065, WS 2086, WS 2506, WS 2521, WS 2682, WS 2684, AZ I:6:9 (ASM), AZ I:6:10 (ASM), AZ I:6:11 (ASM), AZ I:6:12 (ASM), AZ I:6:16 (ASM), are all probably prehistoric field houses and/or pit houses associated with sites in Wupatki National Monument that were occupied from A.D. 700 to 1300. We recommend that they be considered eligible for listing in the National Register of Historic Places under criterion (d). Similarly, site AZ I:6:13 (ASM) consists of a rock enclosure and numerous agricultural rock alignments that can contribute important information about settlement patterns and land-use on the Colorado Plateau. We recommend that it be considered eligible for listing in the National Register of Historic Places (NRHP) under criterion (d).

Sites AZ I:75 (ASM) (The Gray Mountain Site), WS 2681, WS 2683, WS 2685, WS 2686, AZ I:6:15 (ASM), AZ I:6:8 (ASM), AZ I:7:55 (ASM) all represent prehistoric artifact scatters that may contain subsurface cultural deposits ranging in age from the Archaic through late Prehistoric time periods. These sites may contain important information about land use and resource exploitation on the Colorado Plateau. We recommend that they be considered eligible for listing in NRHP under criterion (d).

Site AZ I:3:10 (ASM) is the historic alignment of US 89. Portions of this highway have previously been recommended as potentially Register eligible under criteria (a), (c) and (d). Courtright and Lonardo (2001) recommend that the roadway and associated features not be considered Register eligible primarily because they lack significance and integrity of design and materials. Following related discussion among SHPO and ADOT representatives, we recommend that the roadway retains integrity of location and feeling and may be potentially NRHP eligible based on those qualities.

Sites AZ I:7:154 (ASM), AZ-N-12-9 (NNHPD)/AZ I:3:7 (ASM), AZ-N-12-24 (NNHPD), and AZ-N-12-25 (NNHPD) are all relatively low-density prehistoric artifact scatters. They appear to be indicative of raw material procurement focused on naturally occurring outcrops of chert and quartzite, and seem unlikely to contain subsurface materials. We recommend that they not be considered NRHP eligible because they lack diagnostic artifacts or subsurface materials necessary to place them in a cultural context.

Sites AZ-N-12-21 (NNHPD)/AZ I:3:14 (ASM) and AZ-N-12-26 (NNHPD) are both structure complexes associated with historic/modern Navajo land-use. Because they are both under 100 years old they are not eligible for listing on the NRHP. However one site (AZ-N-12-21 (NNHPD)) may include remains of hogans where ceremonial activities took place. Therefore it may qualify for protection under the American Indian Religious Freedom Act of 1993 (AIRFA).

A previous cultural resource survey of the portion of the project area from Milepost (MP) 433.97 to 442.33 identified four additional historic properties described in the enclosed report titled *Archaeological Survey of 8.41 Miles of Right-of-way Along U.S. Highway 89, Mileposts 433.97 to 442.33, North of Flagstaff, Coconino County, Arizona* (Weaver 1991). Sites AZ I:6:4 (ASM), AZ I:6:5 (ASM), AZ I:6:6 (ASM) and AZ I:6:7 (ASM) are all possible fieldhouses associated with occupations at Wupatki National Monument. We recommend that all four of these sites be considered eligible for listing on the NRHP under criterion (d) for their potential to contribute valuable information on settlement and land-use on the Colorado Plateau.

A previous cultural resources survey from MP 465.39 to 470.8 identified two additional historic period sites in the project area. These sites are described in the enclosed report titled *An Archaeological Survey of a Portion of US 89 Right-of-Way, from Milepost 465.39 to 470.8, North and South of Cameron, Coconino County, Arizona* (Spalding and Lefthand 1995). Sites AZ I:3:8 (ASM) and AZ I:3:9 (ASM) are both historic trash scatters. Site AZ I:3:8 (ASM) consists of approximately 300 artifacts ranging in age from early to mid 20th century and probably represents a limited-use dump. We recommend this site be considered potentially eligible for listing on the NRHP under criterion (d) for its ability to provide important information on the historic economy of the region. Site AZ I:3:9 (ASM) consists of a large historic trash scatter with concentrations containing thousands of artifacts dating primarily to the 1940's – 1950's, and 3 sandstone and/or concrete structures. This site probably represents a formal dump and we recommend that it be considered eligible for listing on the NRHP under criterion (a) for its association with the historic highway US 89, and criterion (d) for its potential to contribute important information about the historic economy of the region.

A previous cultural resources survey from MP 470.8 to 485.0 identified two additional archaeological sites in the project area. These sites are described in the enclosed report titled *An Archaeological Survey of a portion of US 89 Right-of-Way, from Milepost 470.80 to 485.0, South of the Gap, Coconino County, Arizona* (Lefthand 1998). Site AZ I:3:12 (ASM) consists of a small prehistoric artifact scatter probably representing a food processing locus. Based on a previous recording of this site it appears to have possible subsurface remains. We recommend that this site be considered potentially eligible for listing on the NRHP under criterion (d) for its ability to contribute important information on prehistoric land-use on the Colorado Plateau. Site AZ I:3:13 (ASM) is a prehistoric lithic scatter consisting of all stages of reduction as well as 15+ tools. Based on the number of tools present and the possibility of subsurface materials in the alluvial terrace, it may be possible to establish a date and/or cultural context for interpretation of the site. A relatively low investment in testing could establish whether this site contains useful information on prehistoric land-use in the region. Therefore we recommend this site be considered potentially eligible for listing on the NRHP under criterion (d).

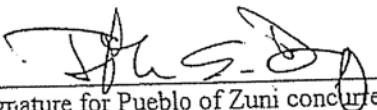
The project described here is in the early stages of planning and it is therefore not possible to identify all impacts to historic properties. However, given the scope of work proposed, historic properties are likely to be adversely affected by the project. FHWA and ADOT recommend that a Programmatic Agreement (PA) be prepared to address any future inventory needs, resolve final determinations of site eligibility, and propose treatments for adversely affected cultural resources. Please review the attached reports and consider the recommendations in this letter. If

you agree with the recommendations, the definition of the APE, the consulting parties, that the surveys were adequate, and that a PA should be prepared, please sign below to indicate your concurrence. In particular we would like to know if you wish to be a participant in the PA and if you have any special input regarding sites of religious or cultural significance. If you need further information or clarification please contact Brett Hill at 602-712-6266 or via email at bhill@dot.state.az.us.

Sincerely,

STEPHEN D. THOMAS

Robert E. Hollis
Division Administrator



Signature for Pueblo of Zuni concurrence



Date

Enclosures

cc: J. Damp, Archaeologist (with enclosures)
Zuni Cultural Resources Enterprise
P.O. Box 1149
Zuni, NM 87327



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
ARIZONA DIVISION
234 N. Central Avenue, Suite 330
Phoenix, AZ 85004
December 6, 2001

IN REPLY REFER TO
HA-AZ
STP-089-C(AEA)
089 CN 441 H5172 01L
SR 89; Antelope Hills - Junction US 60

Dr. George Gumerman
Arizona State Museum
University of Arizona
Tucson, AZ 85721

Dear Dr. Gumerman:

In order to improve traffic and safety conditions, the Federal Highways Administration (FHWA) and the Arizona Department of Transportation (ADOT) are proposing to widen SR 89 along a portion approximately 43 miles long between Antelope Hills and the junction with US 160 near Cameron. The area of potential effect (APE) is defined as the existing 400-foot wide corridor of SR 89 right-of-way (ROW) between MP 441.5 and 484.5. The land is owned by the Navajo Nation, the Arizona State Land Department (ASLD), the National Park Service (NPS) - Wupatki National Monument, and ADOT. The design details of the proposed project are preliminary but include highway widening, the construction of additional traffic lanes, new intersections and the possibility of bypass segments. No new ROW is currently proposed for this project.

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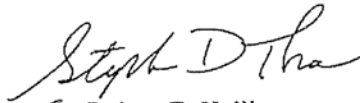
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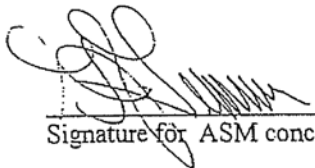
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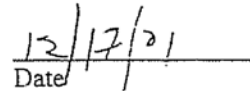
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Sincerely,


for Robert E. Hollis
Division Administrator



Signature for ASM concurrence



Date

Enclosures



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
ARIZONA DIVISION
234 N. Central Avenue, Suite 330
Phoenix, AZ. 85004
December 6, 2001

IN REPLY REFER TO
HA-AZ
STP-089-C(AEA)
089 CN 441 H5172 01L
SR 89; Antelope Hills – Junction US 60

David Jacobs, Ph.D.
Compliance specialist
State Historic Preservation Office
Arizona State Parks
1300 W. Washington
Phoenix, AZ 85007

Dear Dr. Jacobs:

In order to improve traffic and safety conditions, the Federal Highways Administration (FHWA) and the Arizona Department of Transportation (ADOT) are proposing to widen SR 89 along a portion approximately 43 miles long between Antelope Hills and the junction with US 160 near Cameron. The area of potential effect (APE) is defined as the existing 400-foot wide corridor of SR 89 right-of-way (ROW) between MP 441.5 and 484.5. The land is owned by the Navajo Nation, the Arizona State Land Department (ASLD), the National Park Service (NPS) - Wupatki National Monument, and ADOT. The design details of the proposed project are preliminary but include highway widening, the construction of additional traffic lanes, new intersections and the possibility of bypass segments. No new ROW is currently proposed for this project.

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Logan Simpson Design, Inc. conducted a cultural resources survey that is described in the enclosed report *-A Cultural Resources Survey of 935 Acres for Future Improvements to the US 89 Travel Corridor Between Antelope Hills and Cameron (Mileposts 442.30 to 465.39), Coconino County, Arizona* (Courtright and Lonardo 2001). This survey identifies the existence of 28 historic properties, 54 Isolated Occurrences, and 24 Road Side Memorials. Isolated Occurrences described in this and the following reports are not Register eligible properties and field recording has exhausted their information potential. Likewise, the Roadside Memorials are not Register eligible properties and do not require avoidance or preservation, although we do

recommend they be treated with respect and relocated if they cannot be avoided. The 28 historic properties include primarily a number of prehistoric archaeological sites, the historic alignment of US 89 with associated road features, and two relatively recent structure complexes associated with habitation and pastoral land use. In addition, an ethnographic study would be undertaken in the near future and reports of this study will be forwarded to interested parties.

Sites WS 34, WS 2065, WS 2086, WS 2506, WS 2521, WS 2682, WS 2684, AZ I:6:9 (ASM), AZ I:6:10 (ASM), AZ I:6:11 (ASM), AZ I:6:12 (ASM), AZ I:6:16 (ASM), are all probably prehistoric field houses and/or pit houses associated with sites in Wupatki National Monument that were occupied from A.D. 700 to 1300. We recommend that they be considered eligible for listing in the National Register of Historic Places under criterion (d). Similarly, site AZ I:6:13 (ASM) consists of a rock enclosure and numerous agricultural rock alignments that can contribute important information about settlement patterns and land-use on the Colorado Plateau. We recommend that it be considered eligible for listing in the National Register of Historic Places (NRHP) under criterion (d).

Sites AZ I:75 (ASM) (The Gray Mountain Site), WS 2681, WS 2683, WS 2685, WS 2686, AZ I:6:15 (ASM), AZ I:6:8 (ASM), AZ I:7:55 (ASM) all represent prehistoric artifact scatters that may contain subsurface cultural deposits ranging in age from the Archaic through late Prehistoric time periods. These sites may contain important information about land use and resource exploitation on the Colorado Plateau. We recommend that they be considered eligible for listing in NRHP under criterion (d).

Site AZ I:3:10 (ASM) is the historic alignment of US 89. Portions of this highway have previously been recommended as potentially Register eligible under criteria (a), (c) and (d). Courtright and Lonardo (2001) recommend that the roadway and associated features not be considered Register eligible primarily because they lack significance and integrity of design and materials. Following related discussion among SHPO and ADOT representatives, we recommend that the roadway retains integrity of location and feeling and may be potentially NRHP eligible based on those qualities.

Sites AZ I:7:154 (ASM), AZ-N-12-9 (NNHPD)/AZ I:3:7 (ASM), AZ-N-12-24 (NNHPD), and AZ-N-12-25 (NNHPD) are all relatively low-density prehistoric artifact scatters. They appear to be indicative of raw material procurement focused on naturally occurring outcrops of chert and quartzite, and seem unlikely to contain subsurface materials. We recommend that they not be considered NRHP eligible because they lack diagnostic artifacts or subsurface materials necessary to place them in a cultural context.

Sites AZ-N-12-21 (NNHPD)/AZ I:3:14 (ASM) and AZ-N-12-26 (NNHPD) are both structure complexes associated with historic/modern Navajo land-use. Because they are both under 100 years old they are not eligible for listing on the NRHP. However one site (AZ-N-12-21 (NNHPD)) may include remains of hogans where ceremonial activities took place. Therefore it may qualify for protection under the American Indian Religious Freedom Act of 1993 (AIRFA).

A previous cultural resource survey of the portion of the project area from Milepost (MP) 433.97 to 442.33 identified four additional historic properties described in the enclosed report titled

Archaeological Survey of 8.41 Miles of Right-of-way Along U.S. Highway 89, Mileposts 433.97 to 442.33, North of Flagstaff, Coconino County, Arizona (Weaver 1991). Sites AZ I:6:4 (ASM), AZ I:6:5 (ASM), AZ I:6:6 (ASM) and AZ I:6:7 (ASM) are all possible fieldhouses associated with occupations at Wupatki National Monument. We recommend that all four of these sites be considered eligible for listing on the NRHP under criterion (d) for their potential to contribute valuable information on settlement and land-use on the Colorado Plateau.

A previous cultural resources survey from MP 465.39 to 470.8 identified two additional historic period sites in the project area. These sites are described in the enclosed report titled *An Archaeological Survey of a Portion of US 89 Right-of-Way, from Milepost 465.39 to 470.8, North and South of Cameron, Coconino County, Arizona* (Spalding and Lefthand 1995). Sites AZ I:3:8 (ASM) and AZ I:3:9 (ASM) are both historic trash scatters. Site AZ I:3:8 (ASM) consists of approximately 300 artifacts ranging in age from early to mid 20th century and probably represents a limited-use dump. We recommend this site be considered potentially eligible for listing on the NRHP under criterion (d) for its ability to provide important information on the historic economy of the region. Site AZ I:3:9 (ASM) consists of a large historic trash scatter with concentrations containing thousands of artifacts dating primarily to the 1940's – 1950's, and 3 sandstone and/or concrete structures. This site probably represents a formal dump and we recommend that it be considered eligible for listing on the NRHP under criterion (a) for its association with the historic highway US 89, and criterion (d) for its potential to contribute important information about the historic economy of the region.

A previous cultural resources survey from MP 470.8 to 485.0 identified two additional archaeological sites in the project area. These sites are described in the enclosed report titled *An Archaeological Survey of a portion of US 89 Right-of-Way, from Milepost 470.80 to 485.0, South of the Gap, Coconino County, Arizona* (Lefthand 1998). Site AZ I:3:12 (ASM) consists of a small prehistoric artifact scatter probably representing a food processing locus. Based on a previous recording of this site it appears to have possible subsurface remains. We recommend that this site be considered potentially eligible for listing on the NRHP under criterion (d) for its ability to contribute important information on prehistoric land-use on the Colorado Plateau. Site AZ I:3:13 (ASM) is a prehistoric lithic scatter consisting of all stages of reduction as well as 15+ tools. Based on the number of tools present and the possibility of subsurface materials in the alluvial terrace, it may be possible to establish a date and/or cultural context for interpretation of the site. A relatively low investment in testing could establish whether this site contains useful information on prehistoric land-use in the region. Therefore we recommend this site be considered potentially eligible for listing on the NRHP under criterion (d).

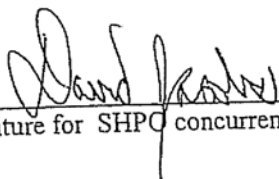
The project described here is in the early stages of planning and it is therefore not possible to identify all impacts to historic properties. However, given the scope of work proposed, historic properties are likely to be adversely affected by the project. FHWA and ADOT recommend that a Programmatic Agreement (PA) be prepared to address any future inventory needs, resolve final determinations of site eligibility, and propose treatments for adversely affected cultural resources. Please review the attached reports and consider the recommendations in this letter. If you agree with the recommendations, the definition of the APE, the consulting parties, that the

surveys were adequate, and that a PA should be prepared, please sign below to indicate your concurrence. In particular we would like to know if you wish to be a participant in the PA and if you have any special input regarding sites of religious or cultural significance. If you need further information or clarification please contact Brett Hill at (602) 712-6266 or via email at bhill@dot.state.az.us.

Sincerely,



sa Robert E. Hollis
Division Administrator



Signature for SHPO concurrence Date

Enclosures

CC: Brett Hill, ADOT

24 DEC 01

Arizona State Museum
P.O. Box 210026
Tucson, AZ 85721-0026
Tel: (520) 621-6281
Fax: (520) 621-2976

THE UNIVERSITY OF
ARIZONA
TUCSON, ARIZONA

December 17, 2001

Mr. Robert E. Hollis
U.S. Department of Transportation
Federal Highways Administration
Arizona Division
234 N. Central Ave, Suite 330
Phoenix, Arizona 85007

Dear Mr. Hollis:

Thank you for providing the Arizona State Museum (ASM) with documentation relevant to future widening of State Route 89 (*HA-AZ STP-089-C (AEA) 089 CN 441 H5172 01L SR 89; Antelope Hills - Junction US 160*). In your letter of December 06, 2001 you ask the Director of ASM to consider your recommendations regarding the treatment of cultural resources along SR 89. You also provided supporting documentation in the form of archaeological survey reports. These included:

Plateau Mountain Desert Research

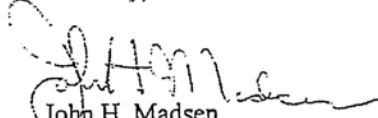
- *Archaeological Survey of 8.41 Miles of Right-of-way Along U.S. Highway 89, Mileposts 433.97 to 442.33, North of Flagstaff, Coconino County, Arizona* (Weaver 1991)
- *An Archaeological Survey of a Portion of US 89 Right-of-Way, From Milepost 465.39 to 470.8, North and South of Cameron, Coconino County, Arizona* (Spalding and Lefthand 1995)
- *An Archaeological Survey of a portion of US 89 Right-of-Way, From Milepost 470.80 to 485.0, South of The Gap, Coconino County, Arizona* (Lefthand 1998)

Logan Simpson Design Inc.

- *A Cultural Resources Survey of 935 acres of Future Improvements to the US 89 Travel Corridor Between Antelope Hills and Cameron (Milepost 442.30 to 465.39), Coconino County, Arizona* (Courtright and Lonardo 2001)

I have reviewed your recommendations including the supporting documentation. I agree with the recommendations, the definition of the APE, the consultation parties, that the surveys were adequate, and that a PA should be prepared. The ASM looks forward to being a participant in the PA for work on State lands in Arizona. I have consulted with the Director regarding these matters and he has signed the attached documented.

Sincerely,


John H. Madsen
Permits Administrator





AHAMAKAV CULTURAL SOCIETY

Fort Mojave Indian Tribe

P.O. 5990 MOHAVE VALLEY, AZ 86440 (928)768-4475

December 19, 2001

Robert E. Hollis, Division Administrator
Federal Highway Administration, Arizona Division
234 N. Central Ave., Suite 330
Phoenix, AZ 85004

RE: HA-AZ STP-089-C(AEA) 089 CN 441 H5172 01L
State Route 89, Antelope Hills-Junction US 60

Dear :

The AhaMakav Cultural Society, which is the Historic and Cultural Preservation Office of the Fort Mojave Tribe, has received and reviewed your December 6 letter and the accompanying cultural resource inventories, and we find that our concerns have been adequately addressed. We defer to the Tribes upon whose ancestral lands this project occurs. We do wish to receive further reports on the project for our reference library.

If you have any questions, call us at (928)-768-4475.

Sincerely,

Chad Smith, Tribal Archeologist,
Cultural Resource Manager

xc: Elda Butler, Director, AhaMakav Cultural Society
Nora Helton, Tribal Chairperson



**THE
NAVAJO
NATION**

P. O. BOX 9000 • WINDOW ROCK, ARIZONA 86515 • (520) 871-6000

KELSEY A. BEGAYE
PRESIDENT

TAYLOR MCKENZIE, M.D.
VICE PRESIDENT

January 3, 2002

Robert E. Hollis, Division Administrator
U.S. Department of Transportation
Federal Highway Administration Arizona Division
234 N. Central Avenue, Suite 330
Phoenix, AZ. 85004

RE: FEDERAL HIGHWAY ADMINISTRATION AND ARIZONA DEPARTMENT OF
TRANSPORTATION IS PROPOSING TO WIDEN START ROAD 89.

The Navajo Nation Historic Preservation Department (HPD) Traditional Culture Program (TCP) is in receipt of your letter dated December 6, 2001. The letter indicates that the Federal Highway Administration (FHWA) and Arizona Department of Transportation (ADOT) is proposing to widen Start Road 89 between Antelope Hills and the Junction of US. 160 in Coconino County, Arizona.

After reviewing your letter, and cross-referencing our sacred site database, the Navajo Nation does not have any immediate concerns with the proposed project. However, the Navajo Nation would like to recommend the FHWA and ADOT consult with Navajo Nation Chapters on the western side of the reservation closes to the project area. You will find attached a brief Navajo Nation Chapter listing with whom you should consult.

The HPD-TCP thanks your office for including the Navajo Nation's concerns regarding the proposed project and for consulting with the Navajo Nation, pursuant to 36CFR 800. Please forward any additional management drafts or plans to our program for review and comments. Should you have any question or concerns, contact our office at (928) 871-7148. Thank you.

Sincerely,

Timothy C. Begay, Navajo Cultural Specialist
Navajo Traditional Culture Program
Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, AZ. 86515
TEL: (928) 871-7148 FAX: (928) 871-7886

TCP 2002-001 /tcb
xc: Consultation File-U.S. Department of Transportation-Arizona Division-Phoenix, AZ.
Chrono File

THE HOPI TRIBE



Wayne Taylor, Jr.
CHAIRMAN

Phillip R. Quochytewa, Sr.
VICE-CHAIRMAN

January 10, 2002

Robert E. Hollis, Division Administrator
U. S. Department of Transportation, Federal Highway Administration
234 N. Central Ave., Suite 330
Phoenix, Arizona 85004

Re: SR 89; Antelope Hills - Junction US 160

Dear Mr. Hollis,

Thank you for your letter dated December 6, 2001, regarding the Federal Highways Administration and the Arizona Department of Transportation proposing to widen a portion of SR 89 along 43 miles between Antelope Hills and the junction with US 160 near Cameron, mileposts 441.5 and 484.5. As you know, the Hopi Tribe appreciates your continuing solicitation of our input and your efforts to address our concerns.

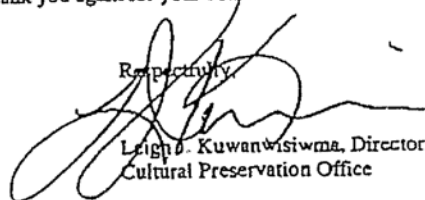
The Hopi Cultural Preservation Office has reviewed enclosed survey reports by Logan Simpson Design, Inc. and Plateau Mountain Desert Research. We understand that 27 prehistoric archaeological sites recommended as eligible for listing on the National Register were identified. These include 16 sites described as prehistoric field houses and/or pithouses, and a site described as numerous agricultural rock alignments, that are associated with sites in Wupatki National Monument. In addition, 10 sites recommended as eligible are described as prehistoric artifact scatters, and four sites described as low-density artifact scatters are recommended as ineligible.

Therefore, we concur that historic properties significant to the Hopi Tribe are likely to be adversely affected by this project. We concur that an ethnographic study including the Hopi Cultural Preservation Office should be undertaken to address input regarding sites of religious and cultural significance to the Hopi Tribe, and that a Programmatic Agreement including the Hopi Tribe should be prepared to address future inventory needs, resolve final determinations of site eligibility, and propose treatments for adversely affected cultural resources. A therefore, at this time, we are not prepared to concur with the eligibility recommendations in your letter.

Furthermore, the Hopi Cultural Preservation Office will need to consult with the Federal Highways Administration and the Arizona Department of Transportation on additional issues potentially associated with this proposal, including Hopi Traditional Cultural Properties identified in litigation with the Navajo Nation in the 1934 case. Preliminary review of our records indicates that three Traditional Cultural Properties identified in the 1934 case may be affected by this proposal.

If you have any questions or need additional information, please contact Terry Morgart at the Cultural Preservation Office at 928-734-3767. Thank you again for your consideration.

Respectfully,


Leigh D. Kuwanwisiwma, Director
Cultural Preservation Office

cc: Arizona State Historic Preservation Office
Brent Hill, Arizona Department of Transportation

P.O. BOX 123—KYKOTSMOVI, AZ. — 86039 — (520) 734-3000



Arizona Department of Transportation

Environmental Planning Group

205 South 17th Avenue Room 213E Mail Drop 619E Phoenix, Arizona 85007-3212
Phone 602.712.7760 FAX 602.712.3066

November 19, 2002

Victor M. Mendez
Acting Director

David Jacobs, Ph.D. Compliance Specialist
State Historic Preservation Office
Arizona State Parks
1300 West Washington
Phoenix, AZ 85007

RE: Project# STP-089-C(AEA)
TRACS 089 CN 441 H5172 01L
US 89, Antelope Hills - Junction US 60
Possible visual impacts to Wuptaki National Monument, Old US 89
SHPO-2001-3208

Dear Dr. Jacobs:

The Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) are proposing to widen US 89 between Antelope Hills and the junction with State Route 160 and this letter continues consultation initiated last year. The purpose of this letter is to (1) clarify the finding of eligibility for the historic alignment of US 89 (AZ I:3:10[ASM]) and (2) to address reasonably foreseeable effects to properties (archaeological sites) adjacent to the transportation corridor across the Wuptaki National Monument (WNM) eligible for criteria other than 'd', caused by the undertaking to widen US 89 that may occur later in time, be farther removed in distance, or be cumulative. Regarding the historic alignment of US 89, the December 6, 2001 FHWA letter to your office stated that the roadway retains integrity of location and feeling and may be potentially National Register of Historic Places (NRHP) eligible based on those qualities.

FHWA and ADOT now consider the portion of historic US 89 within the project area of potential effect to be part of the Historic State Highway System and recommend it as eligible for the NRHP under criterion 'd' for its potential to yield important information about the development of Arizona's roadways.

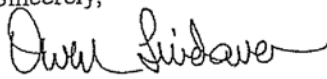
Regarding the second issue, FHWA and ADOT have addressed the need to consider possible effects to historic properties adjacent to the planning corridor and now can propose a finding based on this consideration. On Friday November 8, 2002 representatives from ADOT and Logan Simpson Design (LSD, a consultant to ADOT) met with Ms. Jerry De Young of the WNM at the Citadel Ruin to determine whether the proposed widening would result in visual impacts that would result in an adverse effect pursuant to 36 CFR 800.5(a)(1).

LSD found that both the existing and proposed highway centerlines were not visible from various viewpoints except at the entrance to the WNM at US 89. Also, since the proposed widening would occur adjacent to the existing right-of-way, FHWA and ADOT have taken steps to minimize harm to the WNM and any possible visual impacts to archaeological sites. ADOT and FHWA recommend that the proposed improvements would not alter the characteristics of a historic property that qualify the property for inclusion in the National Register and would result in "no adverse effect" to the characteristics that

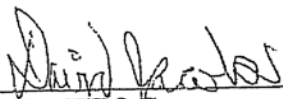
would make any properties outside the existing or proposed new right-of-way Register-eligible. The documentation of the visual impacts from selected viewpoints will be included in the Environmental Assessment document. To further ensure any visual impacts are minimized, FHWA and ADOT commit to working closely with the WNM in the design phase to implement any appropriate measures (such as soil staining or specially contoured slopes).

Please consider the information in this letter. If you agree that the historic alignment of US 89 is Register-eligible under criterion 'd' and that the proposed improvements to the US 89 corridor through the WNM would result in "no adverse effect" regarding historic properties adjacent to but outside the area of current and proposed right-of-way, please sign below to indicate your concurrence. Serelle Laine will be taking over my role on this project. If you need further information please contact her at (602) 712-8636.

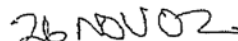
Sincerely,



Owen Lindauer, Ph.D.
Historic Preservation Specialist



Signature for SHPO Concurrence



Date

Enclosure

cc: S. Thomas (FHWA)



Arizona Department of Transportation

Environmental Planning Group

1801 S. Milton Rd. Mail Drop F500 Flagstaff, Arizona 86001
Phone 928-779-7528 FAX 928-774-0784

Jane Dee Hull
Governor

December 23, 2002

Victor M. Mendez
Director

Mr. Sam Henderson
Superintendent, Wupatki National Monument
National Park Service
6400 North Highway 89
Flagstaff, Arizona 86004

RE: Arizona Department of Transportation Project
US 89 Antelope Hills - Junction US 160
TRACS No: 098 CN 348 H5676 01C
Biological Evaluation

Dear Mr. Henderson:

The Arizona Department of Transportation (ADOT), using funding from the Federal Highway Administration (FHWA), proposes to widen US Highway 89 (US 89) in central Coconino County. The project would begin approximately 26 miles north-northeast of the city of Flagstaff (at the boundary between the Coconino National Forest and the Wupatki National Monument) and end on the Navajo Indian Reservation approximately 3.2 miles north of the junction of US 89 with US 160. The Preferred Alternative generally consists of widening US 89 to a four-lane divided highway (five-lane undivided in some sections), modifying the US 89-SR 64 intersection, and modifying the US 89-US 160 intersection.

The enclosed Biological Evaluation (BE) evaluated all U.S. Fish and Wildlife Service (USFWS) threatened, endangered, proposed, candidate, and conservation agreement species potentially occurring in Coconino County. A "may affect, not likely to adversely affect" determination was made for the humpback chub, razorback sucker, Southwestern willow flycatcher, and black-footed ferret. Therefore, FHWA is in the process of initiating informal consultation with USFWS pursuant to Section 7 of the Endangered Species Act. Also enclosed is a survey report for Gunnison's prairie dog town surveys partially conducted within Wupatki National Monument during the spring of 2002.

I am submitting the BE for your review and concurrence. If you have any questions, feel free to contact me at 928-779-7528. If you agree with the BE findings please sign below and return this letter to the above listed address. Thank you for your time and continued support.

Sincerely,

Justin White
Wildlife Biologist, Environmental Planning Group

Enclosure: as noted

Reviewed by National Park Service Biologist

3 FEBRUARY 2003
Date



United States Department of the Interior
NATIONAL PARK SERVICE
WUPATKI - SUNSET CRATER VOLCANO - WALNUT CANYON
NATIONAL MONUMENTS
6400 N. Highway 89,
Flagstaff, Arizona 86004



IN REPLY REFER TO:
H3019

February 7, 2003

Robert E. Hollis
Division Administrator
U.S. Department of Transportation
Federal Highway Administration
Arizona Division
One Arizona Center, Suite 410
400 E. Van Buren St.
Phoenix, AZ 85004

RE: HA-AZ
STP-089-C(AEA)
TRACS No. 89 CN 441 H5172 OIL
US-89; Antelope Hills to Jct US-160
Cooperating Agency Request

Dear Mr. Hollis:

The National Park Service, Flagstaff Area National Monuments would like to participate as a cooperating agency in the Environmental Assessment regarding the proposed roadway improvements to US 89 from Antelope Hills (milepost 442.0) to US 160 (MP 484.0) in Coconino County. The Flagstaff Area National Monuments would like to be involved in bimonthly meetings, reviewing and concurring in the evaluation of issues under National Park Service jurisdiction, and serving as consultants on any relevant technical studies.

Thank you for the opportunity to participate as a cooperating agency on the US 89 to US 160 proposed road improvements project. If you have any questions concerning this correspondence, please contact Jeri DeYoung at (928) 526-1157 ext. 236.

Sincerely,


Sam R. Henderson
Superintendent

cc: Steve Thomas (FHWA), Justin White (ADOT), Diane Simpson-Colebank (LSD)



United States Department of the Interior
NATIONAL PARK SERVICE
WUPATKI – SUNSET CRATER VOLCANO – WALNUT CANYON
NATIONAL MONUMENTS
6400 N. Highway 89,
Flagstaff, Arizona 86004



IN REPLY REFER TO:
H2417 (FLAG-RM)

February 14, 2003

Kathryn Leonard
Historic Preservation Specialist
Environmental Planning Group
Arizona Department of Transportation
205 South 17th Street
Phoenix, AZ 85007

RE: Project# STP-089-C(AEA)
TRACS 089 CN 441 H5172 OIL
US 89, Antelope Hills – Junction US 60
Possible visual impacts to Wupatki National Monument

Dear Ms. Leonard:

This letter is in response to correspondence we received November 19, 2002 regarding visual impacts from the expansion of U.S. 89 to Wupatki National Monument. While we agree that the proposed changes to U.S. 89 will not have visual impact on Lomaki and/or Citadel Pueblos, we do feel that other sites close to the highway corridor may be affected. We would like to continue to work closely with the Federal Highway Administration and Arizona Department of Transportation on the U.S. 89 Antelope Hills – Junction U.S. 60 expansion.

Thank you for the opportunity to comment. If you have questions regarding this correspondence, please contact Jeri DeYoung at (928) 526-1157 ext. 236.

Sincerely,

Sam R. Henderson
Superintendent

cc: Steve Thomas, Federal Highway Administration

NAVAJO REGIONAL OFFICE
BRANCH OF ENVIRONMENTAL SERVICES
LETTER OF TRANSMITTAL

February 15, 2001

Michael Shirley, Senior Environmental Planner
Logan Simpson Design, Inc.
51 West Third Street, Suite 450
Tempe, Arizona 85281

RE: US 89; Antelope Hills to Jct. US 160
Federal Project No. STP-089-A()
TRACS No. 89 CN 444 H5172 01L

The Navajo Regional Office, Branch of Environmental Services, is in receipt of your letter of January 12, 2001. The letter, with attachments, addresses the US 89; Antelope Hills to Jct. US 160 Federal Project No. STP-089-A() TRACS No. 89 CN 444 H5172 01L. We understand the potential road improvements to US 89, and a draft environmental assessment (EA) document is proposed for the project. Enclosed for your reference are sources for natural resource information, consultation guidelines, and EA format used by the Navajo Regional Office (NRO). We request a draft and final copy of the EA for our file. The Branch of Environmental Services will make a determination of significant impact.

It is hoped that your proposed environmental document is well-written; provides a useful picture of the purpose and need of the project; selects a preferred alternative from a reasonable range of action alternatives; describes the existing conditions in the affected environment; comprehensively evaluates the potential environmental impacts; and prescribes mitigation measures for each impact.

We appreciate your initial inquiry. Should you require additional information or clarification on the subject matter, please, contact or leave message for Mr. Leonard Robbins, Navajo Regional NEPA Coordinator, at (505)863-8286.


Navajo Regional NEPA Coordinator



Arizona Department of Transportation
Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

Victor M.
Mendez
Director

March 17, 2003

Bill Higgins
Acting State
Engineer

David Jacobs, Ph.D.
Compliance Specialist
State Historic Preservation Office
Arizona State Parks
1300 W Washington
Phoenix, AZ 85007

RE: Project No. STP-089-C(AEA)
TRACS No. 089 CN 445 H5172 01L
US 89; Antelope Hills to Jct. US 160
Continuing Section 106 Consultation
Traditional Cultural Properties Inventories

Dear Dr. Jacobs:

As you may recall, the Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) are proposing to widen US 89 between Antelope Hills and the Junction of State Route 160. As this project qualifies for federal-aid funding, it is considered an undertaking subject to Section 106 review. Initial consultation on the adequacy of cultural resource survey and eligibility recommendations on historic properties within the project area has already occurred for this project (Hill [ADOT] to Jacobs [SHPO] December 6, 2001; SHPO concurrence December 24, 2001). As part of the cultural resources consultation for this project, FHWA and ADOT have requested the Hopi Tribe and the Navajo Nation to prepare documents assessing the potential for the project area to contain Traditional Cultural Properties which may be of importance to their communities. The purpose of this current consultation is to submit the results of the Hopi and Navajo TCP inventories to the SHPO for review and comment.

The Hopi Tribe TCP inventory was prepared by Anthropological Research L.L.C. The results, reported in "*Hopi Traditional Cultural Properties in the US 89 Highway Right-of-Way from Antelope Hills to US 160 Junction*" (Krall and Ferguson, 2002) are enclosed for your review. The Hopi TCP inventory identifies a rock cluster (also identified as Feature 1 of site WS 2683) as a possible shrine, a property of traditional and cultural importance to the Hopi people. Site WS 2683 has previously been recommended eligible for the National Register of Historic Places (NRHP) under criterion 'd' for its potential to contribute important information about land use and resource exploitation on the Colorado Plateau (SHPO concurrence December 24, 2001). In their list of project recommendations, the Hopi Tribe recommends that ADOT contract the Hopi Cultural Preservation Office to undertake further investigations of this rock ring to better determine its ritual nature. FHWA and ADOT propose the incorporation of the Hopi's recommendation into the execution of a Programmatic Agreement (PA) to

address the undertaking's potential effect on this property, as well as the Hopi's other concerns regarding the historic properties within the area of potential effect (APE).

The Navajo Nation TCP inventory results are reported in *"US Route 89 Travel Corridor Future Improvements by ADOT: Navajo Traditional Cultural Places Inventory Gray Mountain to Junction with Route 160"* (Kelley and Francis 2002). The Navajo Nation TCP inventory includes observations and recommendations that are not readily addressed by Section 106 consultation, including the effect of the proposed undertaking on the health and wellbeing of livestock, economic impacts of the undertaking on Native American roadside businesses, and problems with the appropriation of natural resources. FHWA and ADOT recommend that this information be shared with members of the Project Team responsible for compliance with the National Environmental Policy Act (NEPA).

The Navajo Nation TCP inventory report expresses concerns over several specific historic properties. The TCP inventory recommends that site AZ-N-12-26 (NNHPD), a Navajo homesite, be considered eligible for the NRHP under three distinct criteria: criterion 'a' for its association with early 20th century Navajo settlement; criterion 'b' for its association with immortals for whom offerings have been left; and criterion 'd' for its capacity to provide significant information about early 20th century Navajo settlement. FHWA and ADOT recommend that the site be considered eligible under criterion 'd' only, and further contend that the TCP inventory lacks documentation to warrant eligibility considerations under criteria 'a' and 'b'. Site AZ-N-12-26 (NNHPD) has previously been recommended by FHWA and ADOT as ineligible to the NRHP due to its relatively recent age and lack of buried deposits (SHPO concurrence December 24, 2001). FHWA and ADOT further observe that site AZ-N-12-26 (NNHPD) is situated outside of the currently defined APE, and should not be affected by the proposed undertaking. As such, no further action is required.

Site AZ-N-12-21 (NNHPD), a historic Navajo homesite, is also evaluated within the TCP inventory report and recommended eligible under criterion 'd', for its potential to reveal information about Navajo settlement history. Although the TCP inventory report acknowledges that this site is not considered a TCP, it recommends for the site to be re-recorded in light of the failure of previous archaeological studies to recognize certain "unrecorded features and artifacts" and its eligibility be reassessed. FHWA and ADOT have previously recommended site AZ-N-12-21 (NNHPD) ineligible to the NRHP due to its relatively recent age and lack of buried deposits (SHPO concurrence December 24, 2001). FHWA and ADOT further observe that site AZ-N-12-21 (NNHPD) is situated outside the currently defined APE, and should not be affected by the proposed undertaking. As such, no further action is required.

The Navajo Nation TCP inventory, also recommends the avoidance of all Precolumbian archaeological sites that may contain the potential for burials. Sites WS 34, WS 2065, WS 2086, WS 2506, WS 2521, WS 2681-2686, AZ:I:6 :8-13 (ASM), AZ I:6:15 (ASM), AZ:I:6:16 (ASM), and AZ I:7:155 (ASM) are specifically referenced. FHWA and ADOT are committed following a policy of avoidance of historic




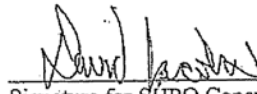
March 17, 2003
Page 3 of 3

properties where possible; however, the proposed undertaking may impact several of these archaeological sites and a program of data recovery may be necessary. FHWA and ADOT recommend the execution of a Programmatic Agreement to address the Navajo Nations concerns regarding historic properties and data recovery within the area of potential effect (APE).

Please review the information provided in this letter, as well as the enclosed TCP inventories. If you agree with FHWA and ADOT's assessments of the recommendations made in the TCP inventories, and agree with FHWA and ADOT's recommendation for the execution of a Programmatic Agreement to address both the Hopi Tribe's and the Navajo Nation's concerns, please indicate your concurrence by signing below. If you have any questions or concerns, please feel free to contact me at 602-712-6266 or by email at Kleonard@dot.state.az.us.

Sincerely,


Kathryn Leonard
Historic Preservation Specialist


Signature for SHPO Concurrence

25 MAR 03
Date

Enclosures (2)
C: Thomas, Dietering





Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation
Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Bill Higgins
Acting State
Engineer

March 31, 2003

Ms. Jeri DeYoung, Archaeologist
Flagstaff Area National Parks
National Park Service
6400 N Highway 89
Flagstaff, AZ 86004

RE: Project No. STP-089-C(AEA)
TRACS No. 089 CN 441 H5172 01L
US 89; Antelope Hills- Junction US 160
Section 106 Continued Consultation

Dear Ms. DeYoung:

Thank you for your continued consultation with the Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) to address the impact of the proposed realignment of US 89 on historic properties within and adjacent to the project area. In previous consultation (Lindauer [ADOT] to DeYoung [NPS], November 19, 2002), ADOT expressed its recommendation that the current preferred alignment of the US 89 project would result in "no adverse effect" to properties adjacent to, but outside the area of current and proposed right-of-way. In response to this consultation (Henderson [NPS] to Leonard [ADOT] February 14, 2003), NPS acknowledged the absence of visual impacts to Lomaki and Citadel Pueblos, but expressed the desire to continue consultation to address visual impact to other sites outside of the proposed corridor.

Since this previous consultation, FHWA and ADOT have worked with project designers to modify the preferred alternative so to minimize visual impacts to sites within the vicinity of the park entrance, while also minimizing the number of sites that would be directly impacted by construction.

If you agree with FHWA and ADOT's recommendation that the proposed improvements would not alter the characteristics that would make any properties outside the existing or proposed new right-of-way eligible for the National Register of Historic Places, and that this project should proceed with a finding of "no adverse effect" to these properties, please indicate your concurrence by signing below. FHWA and ADOT appreciate the National Park Service's

DeYoung
March 31, 2003
Page 2 of 2

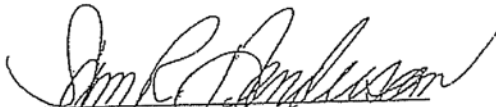
mandate of stewardship for the Park's cultural resources and wish to continue consultation with your agency to address the impact to historic properties within the project area.

If you have any questions or concerns, please feel free to contact me at 602-712-6266 or by email at Kleonard@dot.state.az.us.

Sincerely,



Kathryn Leonard
Historic Preservation Specialist


Signature for NPS Concurrence

4-3-2003
Date

C: Thomas, Dietering





**THE
NAVAJO
NATION**

P.O. Box 9000 • WINDOW ROCK, ARIZONA • 86515

PRESIDENT
JOE SHIRLEY, JR.
VICE PRESIDENT
FRANK J. DAYISH, JR.

April 03, 2003

Justin White, Wildlife Biologist
Arizona Department of Transportation
Environmental Planning Group
1801 S. Milton Road
Flagstaff, AZ 86001

RE: US 89 Antelope Hills -- Junction US 160 Biological Evaluation

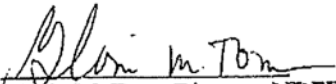
Dear Mr. White,

The attached Biological Resources Compliance Form (BRCF) contains our response to the Biological Evaluation (BE) that you submitted to the Navajo Nation Department of Fish and Wildlife (NDFW) in December 2002 regarding US 89 Antelope Hills - Junction US 160 proposed road construction.

The expansion of US Highway 89 is slated for construction in 2009, almost six (6) years away. The NNDFW submits its responses to the current Biological Evaluation (BE) but changes are inevitable between now and 2009 in terms of species and habitat. NNDFW is prepared to coordinate with ADOT, USFWS and others to achieve the highest avoidance and the least impact to sensitive species where applicable.

The Navajo Endangered Species List (NESL) will be updated by 2004 as new or current species will be added, deleted or changed in their classification. The NNDFW is prepared to meet these upcoming challenges, however, NNDFW is limited in terms of funding. The NDFW is interested in soliciting funding support from ADOT to perform surveys for plants only that is directly affiliated with Highway 89. If any possibility exists, please advise.

Please review the compliance form. Should you have any questions, please do not hesitate to call Mr. Elmer Clark at (928) 871-6451.


Gloria M. Tom, Director, NDFW

Xc: Chrono/Files
Elmer Clark, Planner
Daniela Roth, Botanist, NDFW
David Mikesic, Zoologist, NDFW

Department of Fish & Wildlife -- Natural Heritage Program, P.O. Box 1480, Window Rock, AZ 86515
Phone (928)871-6472 or 6451 Fax (928)871-7603

BIOLOGICAL RESOURCES COMPLIANCE FORM
NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE
P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480

COMPLIANCE	<input type="checkbox"/>
CONDITIONAL COMPLIANCE	<input checked="" type="checkbox"/>

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

PROJECT NAME & NO.: US 89 Antelope Hill - Junction US 160

DESCRIPTION: Project converting two lane Highway 89 into 4 and/or 5 Lanes for 26 miles

LOCATION: Beginning 26 miles northeast of Flagstaff on US Hiway 89 and ending 3.2 miles north of US 89 and US 160 junction on the Navajo Nation.

REPRESENTATIVE: Justin White

ACTION AGENCY: ADOT

B.R. REPORT TITLE / DATE / PREPARER: "Biological Evaluation for US 89 Antelope Hills - Junction US 160", Environmental Planning Group; December 2002; Prepared by Logan Simpson Design, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Southwestern Willow Flycatcher, Black-footed ferret (potential), Fickeisen pincushion cactus, Beath's milk-vetch, Peebles blue-star, Tuba City milk-vetch, Northern leopard frog and Yellow-billed cuckoo.

POTENTIAL IMPACTS

TRIBAL ENDANGERED SPECIES (G2 & G3) TAKEN: Northern leopard frog (NESL G-2); Black-footed ferret (NESL G-2); and Southwestern willow flycatcher (NESL G-2) and Fickeisen's pincushion cactus (NESL G-3).

FEDERALLY-LISTED SPECIES AFFECTED: Southwestern willow flycatcher, Black-footed ferret, Northern leopard frog, Fickeisen pincushion cactus (federal candidate for listing), Yellow-billed cuckoo (federal candidate for listing)

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: Beath's milk-vetch (NESL G-4), Peebles blue-star (NESL G-4) and Tuba City milk-vetch (NESL G-4)

AVOIDANCE / MITIGATION MEASURES: Based on the findings of the pre-construction surveys for the species of concern, the NNDFW will communicate and coordinate with ADOT/Environmental Planning Group to implement the relevant and applicable avoidance and/or mitigation measures for tribally listed species as determined by NNDFW. Several species are overlapping in terms of having tribal and federal protection making coordination a necessity.

CONDITIONS OF COMPLIANCE*: The NNDFW concurs on with some of the recommended surveys and/or re-surveys for some species of concern and are indicated as follows:

1. Southwestern Willow Flycatcher: "Project-related surveys" are recommended at both the Little Colorado River and Moenkopi Wash bridge construction sites utilizing the new Southwestern Willow Flycatcher survey protocol within a 0.5 mile radius from each of the project site with three (3) survey periods at the following intervals: May 15 to May 31, June 01 to June 21, and June 22 to July 17. The last survey period, June 22 to July 17, requires a minimum of three surveys, each at least five days apart.

2. Black-Footed Ferret: pre-construction survey recommended at the prairie dog towns identified in not only the Biological Evaluation but new prairie dog towns as well within 0.5 mile of construction limits.

3. Fickeisen Pincushion Cactus: concur with ADOT's suggestion for pre-construction survey for the Fickeisen when conditions are favorable. NNDFW suggests surveys during the flowering period, March 01 to April 30. If the cacti are found during surveys between MP 457.3 to MP 459.7, then mitigation measures will be coordinated with NNDFW.

4. Yellow-Billed Cuckoo: pre-construction surveys for Yellow-billed cuckoo within 0.25 mile radius of construction sites at Little Colorado River and Moenkopi Wash between June 15 and July 30.

5. Beath's Milk-Vetch: pre-construction surveys will be necessary again for the total length of 27 miles within the Navajo Nation lands within the 200 feet outside the construction zone. Currently, this species is only known from a few locations along US Highway 89 and Highway 164. Only 2 plants found during the survey raises serious concerns. Other off-hiway habitat need to be identified and surveyed to ascertain the existence of this plant species that are outside the construction zone and beyond the 200 feet outside the construction zone. It is a concern that 110 acres of habitat will be lost within the 224.1 acres that were determined to be suitable habitat. Should off-highway surveys reveal almost non-existent or very minimal populations of the Beath's milk-vetch, then mitigation measures will need to be more extensive including but not limited to realignment of Highway 89.

Tuba City Milk-Vetch: pre-construction surveys for the total 27 miles within the Navajo Nation lands within the 200 feet outside the construction zone will be necessary. Of the 203 plants found during the surveys, 197 are located within the construction limits. Therefore this project will impact the Tuba City milk-vetch. Prior construction did not create habitat for this species, but the increased run-off from the road may have helped to increase the existing roadside populations. Surveys need to extend beyond the construction limits survey areas to find and document other Milk-vetches in the area, if any, to lessen the impact. It is premature to state "but is not likely to jeopardize the continued existence of the Tuba City Milk-Vetch on Navajo Nation lands."

6. Northern Leopard Frog: Pre-construction surveys are recommended. At least one (1) pedestrian survey from May 01 to July 31 (for elevations higher than 2100 meters, surveys are recommended June 01 to July 31). Habitat evaluation may be done year round.

7. Peeble's Bluestar: Only 12 plants were found during the survey of which 8 plants are within the construction area. The project would result in disturbance to 224.1 acres of which 110.3 acres would be permanently lost. The project does not create additional habitat. However, we do concur that road construction will not jeopardize the continued existence of this species. Additional surveys will not be necessary.

Other Recommendations:

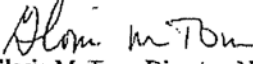
1. The NESL database will be updated next year, 2004. This means the species list will be modified to add or delete new or current listed species. The NNHP anticipates extensive surveys for the Milk-vetches and other species outside the Hiway 89 project area that might possibly address some of the above concerns. The NNDFW is inquiring about the feasibility of ADOT providing supplemental funding to NNDFW to undertake this major survey/re-survey project.
2. Other pre-construction surveys will be necessary for the Golden eagle, Bald eagle, Ferruginous hawk and American pronghorn sometime before construction and new species of concern that might be added to the NESL.

FORM PREPARED BY / DATE: Elmer Clark, Planner; March 17, 2003

COPIES TO: (add categories as necessary)

- ☒ Navajo Environmental Protection Agency
- ☐ U.S. Fish and Wildlife Service, NM Field Office
- ☒ U.S. Fish and Wildlife Service, AZ Field Office

- ☒ BIA Navajo Region, Environmental Services
- ☐ U.S. Fish and Wildlife Service, UT Field Office
- ☐ (Other)

2 NTC § 164 Recommendation: <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> None (with memo)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	Date 04-03-03
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*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.	
Representative's signature	Date

TOTAL P. 05



May 7, 2003

Kathryn Leonard
Historic Preservation Specialist
Environmental Planning Group
Arizona Department of Transportation
205 South 17th Avenue Room 213E
Phoenix, AZ 85007-3212

RE: STP-089-C(AEA); TRACS # 089 MA CN 445 H5172 01L
US 89; Antelope Hills to Jct. US 160
Continuing Section 106 Consultation
Traditional Cultural Properties Inventories
SHPO-2001-3208 (15262)

Dear Ms. Leonard:

Janet Napolitano
Governor

State Parks
Board Members

Chair
Suzanne Pfister
Phoenix

Gabriel Beechum
Casa Grande

John U. Hays
Yarnell

Elizabeth Stewart
Tempe

William C. Porter
Kingman

Walter D. Armer, Jr.
Benson

Mark Winkleman
State Land
Commissioner

Kenneth E. Travous
Executive Director

Arizona State Parks
1300 W. Washington
Phoenix, AZ 85007

Tel & TTY: 602.542.4174
www.azstateparks.com

800.285.3703 from
(520 & 928) area codes

General Fax:
602.542.4180

Director's Office Fax:
602.542.4188

Thank you for consulting with the State Historic Preservation Office pursuant to 36 CFR Part 800 of the National Historic Preservation Act regarding a proposal to widen US 89 between Antelope Hills and the Junction of State Route (SR) 160, and submitting eligibility recommendations of 28 prehistoric properties in the proposed project area. We have reviewed the submitted materials and offer the following comments.

The Hopi traditional cultural property (TCP) inventory (i.e., *Hopi Traditional Cultural Properties in the US 89 Highway Right-of-Way from Antelope Hills to US 160 Junction*) recommends that all 28 of the prehistoric archaeological sites in the proposed project area be considered as TCPs and eligible to the National Register of Historic Places (NRHP) under criterion 'a' for their association with events pertaining to Hopi clan migration and criterion 'd' for their potential to provide information pertinent to an appreciation of ancestral Hopi subsistence and cultural patterns as well as information pertaining to broad patterns of prehistory in the American Southwest. The Federal Highway Administration (FHWA) contends that the TCP inventory report does not provide adequate support to substantiate the NRHP eligibility of these 28 sites under criterion 'a', and FHWA recommends that these sites are eligible under criterion 'd' only.

We agree that eligibility under criterion 'a' is not justified by the current documentation. The Keeper of the NRHP has stated that the role of the National Register is not to pass judgment on particular cultural values or beliefs, but to identify and recognize those physical places and properties that can help us understand the specific events and themes with a particular time and peoples. A property or natural feature important to a traditional culture's religion and oral tradition is eligible if its importance has been ethnohistorically documented and if the site can be clearly defined. Earlier consultation did include a FHWA and ADOT proposal to incorporate a Hopi recommendation (i.e., Hopi Cultural

Leonard, May 7, 2003
Page 2

Preservation Office to undertake further investigations into rock feature at WS 2683) into the execution of a Programmatic Agreement (PA) addressing the undertaking's potential effect. Some [e.g., WS 2683 and AZ I:7:5 (ASM)] of the 28 sites listed in Hopi TCP inventory certainly deserve more consideration by FHWA and ADOT. Earlier consultation also included a FHWA and ADOT recommendation for the execution of a PA to address the Navajo Nation's concerns regarding historic properties and data recovery within the area of potential effect (APE).

We appreciate your cooperation with this office in considering the impacts of federal undertakings on cultural resources situated in Arizona. If you have any questions or comments, please contact me at (602) 542-7140.

Sincerely,



David Jacobs
Compliance Specialist/Archaeologist
State Historic Preservation Office



United States Department of the Interior

U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE
2-21-02-I-062

May 9, 2003

Robert E. Hollis, Division Administrator
U.S. Department of Transportation
Federal Highway Administration, Arizona Division
One Arizona Center, Suite 410
400 East Van Buren Street
Phoenix, Arizona 85004

Re: US 89 Antelope Hills - Junction US 160

Dear Mr. Hollis:

This responds to your January 7, 2003 request for concurrence with your determination that your proposed highway project is not likely to adversely affect the humpback chub (*Gila cypha*), razorback sucker (*Xyrauchen texanus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and black-footed ferret (*Mustela nigripes*). The proposed action is the conversion of an existing two-lane stretch of US 89 into a four- and five-lane divided highway between mileposts 442 and 484, in Coconino County. Seven bridges will be improved, six of which involve new bridge structures for lanes paralleling the existing bridges. Intersections with State Route 64 and U.S. Highway 160 will be modified, and about 171 culverts will be extended. New rights-of-way and easements will total 267 acres. Construction is currently scheduled for 2009.

Included with your letter was a biological evaluation (BE) that analyzed effects of the proposed action on a list of species obtained from the Arizona Ecological Services website. This BE was later modified to include additional information at our request, and re-submitted with a letter dated March 19, 2003 from the Arizona Department of Transportation (ADOT). This March 2003 BE formed the basis of our review along with an April 21, 2003 telephone conversation with Justin White, ADOT, regarding the number of southwestern willow flycatcher surveys to be conducted. In accordance with the Endangered Species Act (16 U.S.C. 1531 *et seq.*) we concur with the determination that the proposed action may affect, but is not likely to adversely affect, the humpback chub, razorback sucker, southwestern willow flycatcher, and black-footed ferret. Our concurrence is based on measures in the BE as outlined below. If additional information on listed or proposed species becomes available, this determination may be reconsidered.

Southwestern Willow Flycatcher

In your BE you determined that riparian vegetation on-site would likely only be used during migration and not for nesting. Because of the dynamic nature of flycatcher habitat and the time until construction (2009), nesting habitat could develop. Surveys, according to the protocol as revised by our May 31, 2000 letter, will be conducted this year and for a minimum of two consecutive years prior to construction along the Little Colorado River and Moenkopi Wash. If willow flycatchers are detected, the Federal Highway Administration will determine if further section 7 consultation is appropriate.

A total of 4.4 acres of riparian vegetation may be disturbed at Moenkopi Wash and the Little Colorado River. This disturbance will be avoided to the maximum extent practicable.

Black-footed Ferret

The ADOT Environmental Planning Group will coordinate with the U.S. Fish and Wildlife Service during final design to determine the need for black-footed ferret surveys on prairie dog towns within ½ mile of construction limits.

Humpback Chub and Razorback Sucker

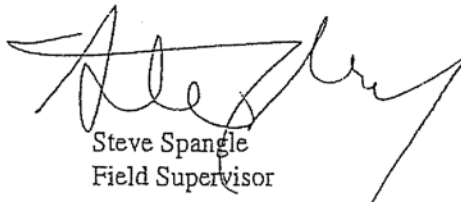
The contractor will comply with the terms and conditions of the National Pollutant Discharge Elimination System and U.S. Army Corps of Engineers permits.

Work within the Little Colorado River channel will begin when no surface flow is present in the construction area. If surface flow begins during construction, all work within the channel will cease and equipment and materials will be relocated outside the channel if able to be safely moved. The ADOT Environmental Planning Group will determine when work within the channel can resume, once surface flows have subsided.

Staging and storage areas, and abutment construction will be located outside the floodplain.

Thank you for your continuing efforts to conserve listed species. If we can be of further assistance, please contact John Nystedt at (928) 226-0250 or Brenda Smith at 226-0007.

Sincerely,



Steve Spangle
Field Supervisor

cc: Steve Thomas, Federal Highway Administration
Justin White, Arizona Department of Transportation

w:/johnnystedt/thwaus89.wpd/ij



United States Department of the Interior
NATIONAL PARK SERVICE
WUPATKI – SUNSET CRATER VOLCANO – WALNUT CANYON
NATIONAL MONUMENTS
6400 N. Highway 89,
Flagstaff, Arizona 86004



IN REPLY REFER TO:
L3027

May 27, 2003

Justin White
Arizona Department of Transportation
Environmental Planning Group
1801 S. Milton Road
Mail Drop F500
Flagstaff, AZ 86001

Dear Mr. White:

Thank you for the opportunity to participate in the formulation of alternatives for the Design Concept Report and Environmental Assessment for improvements to Highway 89, including the portion that currently runs through Wupatki National Monument. Construction of a four-lane highway through the monument has obvious potential to impact the visitor experience, cultural resources, and natural resources of the monument and the surrounding region.

The Wupatki General Management Plan (GMP) states that the monument purpose is... "to preserve, protect, care for, and manage the ancestral Hopi sites, other prehistoric remains, and cultural and natural resources of historic, ethnographic, and scientific interest located within Wupatki National Monument."

The GMP also sets forth a series of park significance statements intended to capture the essence of the park's importance to the nation's natural and cultural heritage and to aid managers in decisions that best preserve the resources and values necessary to the park's purposes. The following significance statements have been developed for Wupatki National Monument:

1. Wupatki is the only known location in the Southwest where physical evidence from at least three archeologically separate ancestral Puebloan cultures is found together in a number of archeological sites. According to Puebloan oral tradition, Wupatki represents one ancestral Puebloan group.
2. The natural and cultural resources within the monument are known to be significant to contemporary native tribes, as evidenced by oral history and continuing practices and the archeological record.
3. Many prehistoric and historic sites are well preserved and have a high degree of cultural resource integrity.
4. Historic material reveals a rich record of human endeavor by Navajo families over a period of 150 years and continuing through the present day and by ranchers, sheepherders, prospectors, Mormons, the Civilian Conservation Corps, park custodians, and the Museum of Northern Arizona. Their activities, combined with environmental changes, have created complex cultural landscapes within the monument.
5. Wupatki protects one of the few native grasslands in the Southwest that is not being domestically grazed, and its integrity is essential to perpetuating native species and natural ecosystem processes.

6. The setting of Wupatki, largely undeveloped and free of air pollution, provides a rare opportunity to clearly see distant vistas such as the Painted Desert, to view the night sky, and to encounter natural quiet – experiences comparable to those witnessed by prehistoric peoples. These qualities provide a baseline against which change can be monitored, managed, and mitigated.

We appreciate your willingness to consider alternatives that would bypass the park entirely, and strongly encourage the analysis of environmental impacts for at least one such alternative. A bypass route would achieve numerous benefits for park resources, park visitors, and taxpayers. The following are some of the potential benefits of a Highway 89 bypass route:

- Enhance National Park Service protection of significant archeological resources.
- Enhance the integrity of the cultural landscape by expanding the un-roaded area to the west boundary.
- Preserve natural and cultural landscapes and the overall visitor experience by reducing traffic noise and eliminating highway traffic on the horizon, now present in nearly all viewsheds along park roads and Lomaki/Box Canyon/Citadel interpretive areas.
- Increase the area of unfragmented, *ungrazed* grassland habitat (an extremely rare habitat in northern Arizona).
- Reduce wildlife mortality by eliminating existing traffic and parallel right-of-way fences that currently isolate 210 acres of monument land west of the highway and by providing opportunities to construct wildlife overpasses to reduce the genetic isolation of the Wupatki pronghorn herd.
- Reduce barriers to pronghorn movement by decreasing the number of fences within the monument.
- Allow restoration of 55 acres of grassland habitat impacted by the current Highway 89 route through the park.
- Reduce night-time light glare from headlights in the monument.
- Reduce incidents of illegal entry into the NPS resource protection zone (closed to general public access) adjacent to the existing right-of-way.
- Reduce litter blowing beyond the right-of-way into the monument.
- Eliminate potential for accidental release of hazardous cargo along the right-of-way through Wupatki.

We greatly appreciate this opportunity to examine alternatives that would best preserve resources and visitor experiences at Wupatki National Monument and we look forward to working closely with you and other partners in developing the Highway 89 project to provide an improved travel corridor in northern Arizona.

If you have any questions or comments, please do not hesitate to contact me at (928) 526-1157 x 227.

Sincerely,



Sam Henderson
Superintendent

cc: Jacqueline Noblitt,
Tami Wollaston



**THE
NAVAJO
NATION**

P.O. Box 9000 • WINDOW ROCK, ARIZONA • 86515

PRESIDENT
JOE SHIRLEY, JR.
VICE PRESIDENT
FRANK J. DAYISH, JR.

29 May 2003

Jackie Noblitt
Stanley Consultants, Inc.
2929 E. Camelback Rd., Suite 130
Phoenix, AZ 85016

RE: US89 Study

We appreciate your time and effort for keeping us involved and updated on the US89 Study. We apologize for not being able to attend your bi-monthly coordination meetings. We are well informed of those meetings, however, conflicting schedules have hindered us from participating.

For your information, the Navajo Nation Department of Transportation (NNDOT) favorably accepts the community of Cameron's alternative of installing a traffic signal light at the Junction of US89 and SR64. The only concern we have with this alternative is the high speed of vehicles entering Cameron. Adequate flashing warning lights and signs indicating the presence of the signal light in the community will have to be installed on all three approaches to the community. We also favorably agree with proposed curbs and gutters along US89 in the community of Cameron. Vehicle exit off of, and access on to, US89 can be controlled by appropriately placed curbs and gutters.

The community of Cameron is also interested in constructing sidewalks along both sides of US89. However, we understand that ADOT will only consider adding sidewalks to their plans if another entity assumes responsibility for the maintenance of the sidewalks. NNDOT has informed Cameron Chapter that Navajo Nation Fuel Excise Tax Funds are available for road improvement projects. However, the Chapter will have to submit an application to use this Fund. The Chapter was also informed that US89 is ADOT's Right-of-Way, and in order to provide maintenance on sidewalks within the Right-of-Way, the Navajo Nation will have to make an official agreement with ADOT. NNDOT's commitment to sidewalk maintenance remains "open" at this time.

A concern which we feel needs further consideration is the intersection at the Dził' I'ibei Elementary School turn off. School buses and parents transporting students, teachers, and administrators use this intersection most of the year. This intersection should be carefully considered and designed to eliminate any potential safety issues concerning students, parents, teachers, and administrators. Vehicles traveling on US89 need to be properly and sufficiently informed of the existence of the school and related traffic.

We appreciate the opportunity to participate in this project. If you need additional information, please call me at 928-871-6498.

Lee Bigwater, Director
Navajo Nation Department of Transportation

c: file
Jim Confer, ADOT, Flagstaff District



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
ARIZONA DIVISION
One Arizona Center, Suite 410
400 E. Van Buren St.
Phoenix, AZ 85004
October 7, 2003

IN REPLY REFER TO
HA-AZ
STP-089-C(AEA)
TRACS No. 089 CN 445 H5172 01L
US 89; Antelope Hills to Jct. US 160
Continuing Section 106 Consultation
Wupatki Bypass Alternative
"adverse effect"

David Jacobs, Ph.D.
Compliance Specialist
State Historic Preservation Office
Arizona State Parks
1300 W Washington
Phoenix, Arizona 85007

Dear Dr. Jacobs:

As you may recall, the Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) are planning to expand the level of service on U.S. Route 89 (US 89) from a two-lane to a four-lane divided highway between Antelope Hills and the junction of U.S. 160 in Coconino County. As this project is qualified for federal funding, it is considered an undertaking subject to Section 106 review. The purpose of this current consultation is to identify the cultural resources that may be impacted by a proposed alternative to construct a bypass around Wupatki National Monument (WNM). The bypass would be constructed on Arizona State Trust land managed by the Arizona State Land Department (ASLD) and private land. Consulting parties for this project include FHWA, ADOT, the State Historic Preservation Office (SHPO), ASLD, the National Park Service (NPS), the Arizona State Museum (ASM), the Fort Mojave Indian Tribe, the Havasupai Tribe, the Hopi Tribe, the Hualapai Tribe, the Kaibab-Paiute Tribe, the Navajo Nation, and the Pueblo of Zuni.

The scope of this alternative would involve constructing a roadway to accommodate four lanes of traffic, as well as access roads for entry into WNM and Hanks Trading Post. For purposes of the current consultation, the area of potential effect (APE) is defined as a four-mile long north-south corridor, commencing at US 89 Milepost (MP) 443.0 and reconnecting at MP 446.6. The corridor is approximately 308 ft wide and encompasses 108.5 acres of ASLD land and 24.3 acres of private land. An adjacent 71.3 acre parcel of land (comprised of 67.3 acres of ASLD and 4.0

acres of private land) may also be impacted during construction of the WNM and trading post access roads.

The bypass corridor has recently been surveyed for cultural resources by Logan Simpson Design, Inc. (LSD). The results are reported in *"A Cultural Resource Survey of 204.1 Acres for the US 89 Bypass around Wupatki National Monument, Between Milepost 443.0 and 446.6, Coconino County, Arizona"* (Courtright and Rogers 2003) and are enclosed for your review and comment.

During the cultural resources survey, 24 newly identified and 2 previously identified archaeological sites were found within the project corridor. The following table summarizes information on the identified sites and provides FHWA's recommendations on their National Register of Historic Places (NRHP) eligibility.

Site	Description	Cultural/ Temporal Affiliation	NRHP Eligibility Recommendation
AZ I:6:19 (ASM)/ WS 2681	Artifact Scatter	Cohonina, Kayenta Anasazi A.D. 775- 1300	Eligible, criterion 'd', information potential
AZ I:6:27 (ASM)	Field House	Indeterminate (w/) A.D. 1100-1250	Eligible, criterion 'd', information potential
AZ I:6:28 (ASM)/ WS 2691	Habitation w/ agricultural features	Cohonina, Kayenta Anasazi A.D. 1040-1250	Eligible, criterion 'd', information potential
AZ I:6:29 (ASM)	Field House	Indeterminate A.D. 1040-1225	Eligible, criterion 'd', information potential
AZ I:6:30 (ASM)	Field Houses w/ agricultural features	Cohonina, Kayenta Anasazi A.D. 1025-1225	Eligible, criterion 'd', information potential
AZ I:6:31 (ASM)	Field House	Indeterminate A.D. 1000-1100	Eligible, criterion 'd', information potential
AZ I:6:32 (ASM)	Rock Enclosure	Indeterminate	Eligible, criterion 'd', information potential
AZ I:6:33 (ASM)	Artifact Scatter	Cohonina, Kayenta Anasazi A.D. 1000-1180	Eligibility Undetermined; Requires Archaeological Testing
AZ I:6:34 (ASM)/ WS 2689	Field House	Cohonina, Kayenta Anasazi A.D. 1040-1220	Eligible, criterion 'd', information potential
AZ I:6:35 (ASM)	Artifact Scatter	Cohonina, Kayenta Anasazi A.D. 1000-1100	Eligibility Undetermined; Requires Archaeological Testing
AZ I:6:36 (ASM)	Habitation w/ agricultural features	Cohonina, Kayenta Anasazi A.D. 1000-1225	Eligible, criterion 'd', information potential
AZ I:6:37 (ASM)	Field House	Kayenta Anasazi A.D. 1000-1100	Eligible, criterion 'd', information potential

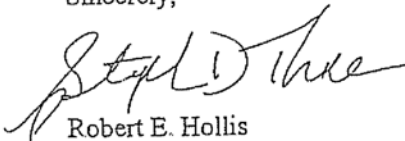
Site	Description	Cultural/ Temporal Affiliation	NRHP Eligibility Recommendation
AZ I:6:38 (ASM)	Field House	Indeterminate A.D. 825-1000	Eligible, criterion 'd', information potential
AZ I:6:39 (ASM)	Multicomponent Site- Field Houses/ Petroglyphs	Kayenta Anasazi A.D. 1000-1250 Archaic 6000-500 B.C.	Eligible, criterion 'd' information potential
AZ I:6:40 (ASM)	Field House	Indeterminate A.D. 950-1300	Eligible, criterion 'd', information potential
AZ I:6:41 (ASM)	Rock Alignment	Unknown	Eligible, criterion 'd', information potential
AZ I:6:42 (ASM)	Field House	Kayenta Anasazi A.D. 1000-1100	Eligible, criterion 'd', information potential
AZ I:6:43 (ASM)	Field House	Indeterminate A.D. 950-1300	Eligible, criterion 'd', information potential
AZ I:6:44 (ASM)	Habitation	Kayenta Anasazi A.D. 1050-1300	Eligible, criterion 'd', information potential
AZ I:6:45 (ASM)	Field House	Indeterminate A.D. 1000-1225	Eligible, criterion 'd', information potential
AZ I:6:46 (ASM)	Field House	Indeterminate A.D. 825-1300	Eligible, criterion 'd', information potential
AZ I:6:47 (ASM)	Rock Enclosure	Kayenta Anasazi A.D. 1000-1220	Eligible, criterion 'd', information potential
AZ I:6:48 (ASM)	Artifact Scatter with Rock Clusters	Kayenta Anasazi A.D. 1070-1250	Eligible, criterion 'd', information potential
AZ I:6:49 (ASM)	Field House	Indeterminate A.D. 950-1300	Eligible, criterion 'd', information potential
AZ I:6:50 (ASM)	Artifact Scatter with Rock Clusters	Indeterminate A.D. 825-1250	Eligible, criterion 'd', information potential
AZ I:3:10 (ASM)	Historic Road Alignment US 89	Euro-American A.D. pre-1935	Eligible, criterion 'd', information potential

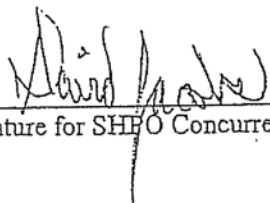
As further details on project scope are not yet available at this time, and the precise footprint of the proposed alignment has not been established, the precise impacts of the bypass alternative on cultural resources are still unknown. However, the number of NRHP eligible properties present in the proposed corridor would likely constitute an "adverse effect" on one or more historic properties in the project area. FHWA recommends the execution of a Programmatic Agreement (PA) between consulting parties to address the effects of this undertaking on identified cultural resources. In the meantime, FHWA and ADOT propose to schedule a field review of the identified cultural resources with representatives of both the Navajo Nation and the Hopi Tribe to assess the presence of identified properties of religious or cultural importance to these communities.

* include
Site
Sketch

Please review the enclosed report and the information provided in this letter. If you find the report adequate and agree with FHWA's eligibility recommendations; recommendation of project effect; and recommendation for the execution of a PA; please indicate your concurrence by signing below and returning this document to FHWA within 30 days of receipt. If you have any questions or concerns, please feel free to contact Kathryn Leonard at 602-712-6266 or email KLeonard@dot.state.az.us.

Sincerely,


Robert E. Hollis
Division Administrator



Signature for SHPO Concurrence

17 OCT 03

Date

Enclosure

cc: Kathryn Leonard, ADOT
* includes SHPO in field review

historic properties, with particular attention given to the installation of interpretive signage and continued preservation of representative segments of the historic road alignment.

FHWA has conducted early Section 106 consultation with the LMNRA and the BLM, to ascertain land management agency concerns. Both LMNRA (Dickinson [LMNRA] to Hollis [FHWA] September 19, 2003) and the BLM (Leonard [ADOT] to Rose [BLM] September 15, 2003; concurrence September 17, 2003) have concurred with the adequacy of FHWA's attempt to identify historic properties, National Register of Historic Places (NRHP) eligibility recommendations, and recommendation of project effect.

Please review the enclosed report and the information provided in this letter. If you find the report adequate and agree with FHWA's eligibility recommendations and recommendation of project effect, as well as the need for a PA to address the project's effect on cultural resources, please indicate your concurrence by signing below. At this time, FHWA is also inquiring whether you have any concerns regarding historic properties of religious or cultural importance to your community within the project area. If you have such concerns, any information you might provide within 30 days of receipt of this letter would be considered in the project planning. If the Paiute Indian Tribe of Utah opts to participate in cultural resource consultation at a later date, FHWA would make a good faith effort to address any of the tribe's concerns. However, such consultation would not necessitate a reconsideration of this recommendation of project effect. If you have any questions or concerns, please feel free to contact Kathryn Leonard at 602-712-6266 or email KLeonard@dot.state.az.us.

Sincerely,

William P. Vachon

Robert E. Hollis
Division Administrator

Donna Martineau
Signature for Paiute Concurrence

Oct. 20-03
Date

Enclosures

cc:

Ms. Donna Martineau (w/ enclosure), Paiute Indian Tribe of Utah

SThomas

KLeonard (619E)

TDeitering

William Dickinson, National Park Service

John Rose, BLM

John Reid, BLM

SDT:cdm



November 26, 2003

Kathryn Leonard
Historic Preservation Specialist
Environmental Planning Group
Arizona Department of Transportation
205 South 17th Avenue Room 213E
Phoenix, AZ 85007-3212

RE: STP-089-C(AEA); TRACS # 089 CN 445 H5172 01L
US 89; Antelope Hills to Jct. US 160
Continuing Section 106 Consultation
SHPO-2001-3208 (17962)

Janet Napolitano
Governor

State Parks
Board Members

Chair
Suzanne Pfister
Phoenix

Gabriel Beechum
Casa Grande

John U. Hays
Yarnell

Elizabeth Stewart
Tempe

William C. Porter
Kingman

William Cordasco
Flagstaff

Mark Winkelman
State Land
Commissioner

Kathleen E. Travous
Executive Director

Arizona State Parks
300 W. Washington
Phoenix, AZ 85007

1 & TTY: 602.542.4174
www.azstateparks.com

800.285.3703 from
520 & 928) area codes

General Fax:
602.542.4180

Director's Office Fax:
602.542.4188

Dear Ms. Leonard:

Thank you for consulting with the State Historic Preservation Office pursuant to 36 CFR Part 800 of the National Historic Preservation Act regarding a proposal to widen US 89 between Antelope Hills and the Junction of State Route (SR) 160, and forwarding a copy of Su Benaron's comments from Arizona State Museum (ASM). We have reviewed the submitted materials and offer the following comments.

Su Benaron's review of the cultural resource report (*A Cultural Resource Survey of 204.1 Acres for the US 89 Bypass around Wupatki National Monument, Between Milepost 443.0 and 446.6, Coconino County, Arizona*) results in only one minor comment regarding whether IO 8 either might fit the ASM site definition criteria or be considered as a feature of abandoned US 89. We prefer the latter alternative, to wit, that IO 8 be considered as a feature of abandoned US 89.

We appreciate your cooperation with this office in considering the impacts of federal undertakings on cultural resources situated in Arizona. If you have any questions or comments, please contact me at (602) 542-7140.

Sincerely,

David Jacobs
Compliance Specialist/Archaeologist
State Historic Preservation Office



Wayne Taylor, Jr.
CHAIRMAN

VICE-CHAIRMAN

December 9, 2003

Serelle Laine, Historic Preservation Specialist
Arizona Department of Transportation
Environmental Planning Group
205 S. 17th Avenue, Room 213E, Mail Drop 619E
Phoenix, Arizona 85007

Re: Comments on US 89 Field Review, Hopi Consultation Trip-December 5, 2003
089 CN 444 H 5172 01E

Dear Ms. Shumaker,

This letter is to summarize the field visit that occurred between The Hopi Tribe, ADOT, Wupatki National Monument, Arizona State Historic Preservation Office, Arizona State Land Department and Logan Simpson Design on December 5, 2003. The visit was to identify and address any concerns and possible effects to properties of cultural importance to The Hopi Tribe in the proposed Antelope Hills to Junction 160 Bypass area.

The following individuals from Hopi were represented. Lee Wayne Lomayestewa, Research Assistant and Lanell Poseyesva, Archaeologist 1, of The Hopi Tribe's Cultural Preservation Office, Morgan Saukkie Bear Clan from Shungopavi Village, Wilton Kooyahoema, Fire Clan from Hotevilla Village, Harold Polingyumptewa Snake Clan from Hotevilla Village and Raleigh Puhuyaoma Sr., Sunforehead Clan from Shipaulovi. Serelle Laine and Justine White represented the Arizona Department of Transportation (ADOT), David Jacobs represented the State Historic Preservation Office, Jeri DeYoung represented the National Park Service, Steve Ross represented the Arizona State Land Department, Scott Courtright and Gregory Brown represented Logan Simpson Design.

The consultation entailed visiting several pre-historic habitation and petroglyph sites. This project will bypass State Highway 89 around Wupatki National Monument. The Hopi Cultural Preservation Office and the advisors know that the project area is state land and the Arizona Department of Transportation (ADOT) is committed to avoiding impacts to as many sites as possible. However, the advisors have these concerns:

1. The advisors are concerned that human remains might be found during construction. They request that if human remains are encountered, The Hopi Tribe is notified and that all work will cease in the area where the human remains are found. ADOT will comply with the protocol as outlined in an approved state burial agreement.

— P.O. BOX 123 — KYKOTSMOVI, AZ — 86039 — (520) 734-3000 —

The burial agreement will be prepared prior to any intensive ground-disturbing archaeological investigations.

2. The fact that construction may impact sites was discussed. The advisors request that all significant sites be marked and that a copy of any work plan and results of archaeological investigations be provided to The Hopi Tribe for review.

3. As a result of the field visit, the advisors offered suggestions for the function of the Wupatki Bypass Alternative archaeological sites;

A. The elders indicated that the sites are definitely habitation sites.

B. Due to the significant density of archaeological sites in the Bypass Alternative, the elders suggested that these habitation sites had a dense population.

C. Site # AZ I:6:40 could have been used as an astronomical observatory since the site is in an open area, and the inhabitants can watch the solstices and equinoxes to determine the different times to perform different ceremonies and when to plant their crops.

D. Many of the sites could have been used to store supplies and food.

E. The advisors saw the petroglyphs at site # AZ I:6:39. They suggested that the some of the petroglyphs were sites where tools were made since the areas are smooth. The patinated scratches were made by the tools that were sharpened.

F. Several clans were identified by the advisors that settled and migrated from the Wupatki area. They are the Bear Clan, Bear Strap Clan, Blue Bird Clan, Snake Clan, Lizard Clan and Water Clan.

G. Site # AZ I:6:41 may have been used as an Antelope trap.

H. Site # AZ I:6:44 has a kiva, ceremonies may have been performed here.

4. This project area must be viewed as part of a larger landscape.

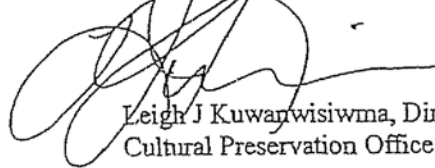
We appreciate your solicitation of our input, and your efforts to address our concerns. If you have any questions please call me at (928) 734-3616.

Sincerely,



Lee Lomayestewa, Research Assistant
Cultural Preservation Office

CONCURRED:



Leigh J Kuwanwisiwma, Director
Cultural Preservation Office

Copy:
CPO files

LAWRENCE MORGAN - SPEAKER OF THE
NAVAJO NATION COUNCIL

EVELYN J. ACOTHLEY
COUNCIL DELEGATE

DUANE S. TBINIQUE
COUNCIL DELEGATE

CARL BIGHORSE
GRAZING COMMITTEE



CAMERON CHAPTER

TEDDY BEDONIS
CHAPTER PRESIDENT

TONY ROBBINS
CHAPTER VICE-PRESIDENT

LOUISE KERLEY
SECRETARY/TREASURER

RAYOLA J. WERITO
COMMUNITY SERVICE
COORDINATOR

RESOLUTION OF CAMERON CHAPTER CAMERON, NAVAJO NATION, ARIZONA 86020

SUPPORTING AND AUTHORIZING ARIZONA DEPARTMENT OF TRANSPORTATION TO PLAN AND DEVELOP A ROUND ABOUT AT THE INTERSECTION OF HIGHWAY 89 AND US 64 IN CAMERON, ARIZONA.

Resolution No: CA-11-097 -04

WHEREAS:

1. The Cameron Chapter is a certified and recognized Chapter of the Navajo Nation Council vested with authority and responsible to provide and address local concerns of the people within the community; and
2. The Cameron Chapter, pursuant to 2 N.N.C., Section 4028 (a), is vested with the authority to review all matters affecting the community and to make appropriate recommendations to the Navajo Nation, Federal, State, and local agencies for appropriate action; and
3. The Cameron Chapter is a gateway to Grand Canyon and into the Navajo Reservation with economic development in the process of being planned and discussion of developed within the Intersection of Highway 89 and US 64; and
4. The Cameron Chapter, the Community Land Use Planning Committee, and Arizona Department of Transportation have been in long term discussion regarding the Intersection of Highway 89 and US 64; whether the development of the Intersection be an over-pass, a stop light, or the new introduction of a round about; and
5. The Arizona Department of Transportation have introduced and gave a report to the Cameron Community regarding the Round About and the Traffic Signal Lights, and after discussion, the community members have supported the Round About model for the Intersection of Highway 89 and US 64; and
6. The Cameron Chapter and the Community Land Use Planning Committee have decided that the Round About will be more suitable for the community. Not only will it be precise, but it will be more safely than other options, it will slow down traffic in all directions, be cost effective, and the community is in favor of this model.

(928) 679-2323/2536

Na' Ní' á Hasání

FAX (928) 679-2297

P.O. BOX 85 • CAMERON, ARIZONA 86020

NOW, THEREFORE, BE IT RESOLVES THAT:

The Cameron Chapter is supporting and authorizing the Arizona Department of Transportation to plan and develop a Round About at the Intersection of Highway 89 and US 64 in Cameron, Arizona.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly considered at a duly called regular Chapter Meeting at Cameron, Navajo Nation, Arizona, at which a quorum was present and that the same was passed with 18 in favor, 9 opposed, and 6 abstained on this 21st day of November, 2004.

Motioned By: Bill Adams

Seconded By: Max Rotkins

Teddy Bedonle
Teddy Bedonle, President

Carl Bighorse
Carl Bighorse, Grazing Officer

Tony Robbins
Tony Robbins, Vice-President

Evelyn Acothley, Council Delegate

Louise Kerley
Louise Kerley, Secretary/Treasurer

Duane Ishigine, Council Delegate



United States Department of the Interior
NATIONAL PARK SERVICE
WUPATKI – SUNSET CRATER VOLCANO – WALNUT CANYON
NATIONAL MONUMENTS
6400 N. Highway 89,
Flagstaff, Arizona 86004



IN REPLY REFER TO:
H4217 (FLAG-RM)

December 1, 2004

Tami Wollaston
Pre-design Project Manager
Arizona Department of Transportation
205 South 17th Avenue
Mail Drop 050P
Phoenix, AZ 85007

RE: Project No. STP-089-C(AEA)
TRACS No. 89 CN 445 H5172 01L
US 89; Antelope Hills-Jct US 160

Dear Ms. Wollaston:

November 22, 2004, I and members of my staff met with John Harper and other representatives from the ADOT Flagstaff District office and Mike Chase Stanley Consultants to discuss proposed alternatives for expansion of US 89 through Wupatki National Monument. Following a brief presentation by Mike Chase regarding the results of the 4(f) evaluation John Harper reported that ADOT is considering an alternative that completes widening US 89 through the monument within the existing right-of-way. The alternative would include construction of two 2-lane roadways with a minimum open 22-foot wide median planted with native grasses. We concur with the findings of the 4(f) evaluation and the determination ADOT made regarding the by-pass. The new option defined above that widens US 89 within the existing right-of-way through Wupatki National Monument is our preferred alternative. We would also like the following items included in the alternative:

- Signs installed at the south and north boundaries of the monument along US 89 that indicate entering and exiting Wupatki National Monument.

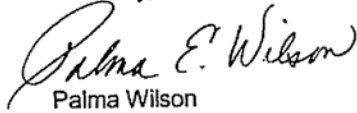
- Speed limit through the monument lowered to 55 mph. We would like to be involved in the process/study that will be used to determine the speed limit.

- Antelope crossings. We would like to be involved in the multi-agency study that determines the type and location of crossings to be constructed on US 89.

- Ownership of the US 89 right-of-way through Wupatki National Monument needs to be determined.

Thank you for the opportunity to participate in this planning process. If you have questions regarding the above comments, please contact compliance coordinator Jeri DeYoung at (928) 526-1157 ext. 236 or via email at jeri_deyoung@nps.gov.

Sincerely,

A handwritten signature in cursive script that reads "Palma E. Wilson". The signature is written in dark ink and is positioned above the printed name and title.

Palma Wilson
Superintendent



Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation
Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Michael Ortega
State Engineer

March 30, 2005

Ray Russell, Director
Navajo Nation Parks and Recreation Department
PO Box 2520
Window Rock, AZ 86515

RE: US 89 Antelope Hills to Jct. 160 Design Concept Report/Environmental Assessment
MP 441.5 to MP 484.5
Project No. STP-089-C(AEA)
TRACS No. #089 CN 441 H5172 01L

Dear Mr. Russell:

The Federal Highway Administration (FHWA) in association with the Arizona Department of Transportation (ADOT) is evaluating alternatives, which may widen US Highway 89 (US 89) in central Coconino County. The project would begin approximately 26 miles north of the city of Flagstaff (milepost 442.0) and end north of the junction of US 89 with US 160 (milepost 484.0) (Figure 1). The proposed roadway improvements generally consist of widening US 89 to a four-lane divided highway (five-lane undivided in some sections) and modifying the US 89/SR 64 and US 89/US 160 intersection configurations (Figure 2). Meetings with the Cameron, Bodaway/Gap, Tuba City, and Coalmine Canyon Chapters have been held and input has been incorporated into subsequent roadway improvements and environmental efforts.

Five different build alternatives in addition to the No Action Alternative have been considered. Copies of the matrix describing and evaluating the build alternatives are attached. The No Build Alternative was eliminated because it would not correct existing or projected capacity and operational deficiencies. The accident rate at the intersection of US 89 and US 160 is higher than average. The sight distance at this intersection is below the American Association of State Highway Transportation Officials (AASHTO) recommended sight distance, which may be a contributing factor to the accidents at this intersection. The No Action Alternative would not reduce potential traffic accidents at the intersection or correct the site distance deficiency.

The proposed US 89/US 160-intersection configuration is a standard diamond traffic interchange, which would require approximately 15 acres of additional easement from the Navajo Nation. Approximately 6.6 acres of the 15 acres would be needed from the Little Colorado River Tribal Park to construct the proposed intersection improvements.

The Standard Diamond Traffic Interchange would 1) achieve separation of traffic while maintaining uninterrupted through traffic on US 89, 2) accommodate potential future development at the intersection, 3) reduce the potential for traffic conflicts, and 4) better meets driver expectations on US 160 westbound-to-southbound movement (since drivers no longer have to stop after rounding the curve to approach US 89). No other land within the Park would be needed for this widening project.



In addition to the five build alternatives, we have also reviewed alternatives on US 89's existing alignment and on a new alignment that would implement the FHWA/ADOT's desired roadway improvements without using the Parkland. Improving the roadway on the existing alignment would minimally require construction of a four-lane roadway section with a 30-foot at-grade median centered on the existing roadway centerline and a traffic signal to control turning movements at the intersection of US 89 and US 160. There is not sufficient right-of-way/easement to construct these improvements at the US 89/US 160 intersection without acquiring additional right-of-way/easement. In addition, a traffic signal at the intersection of US 89 and US 160 would disrupt the continuity of traffic flow in the corridor by stopping the traffic on US 89, which could lead to an increase in accidents because of drivers' not anticipating a signal in this rural setting. It is not feasible and prudent to avoid Section 4(f) lands by improving the roadway on the existing alignment because there is not sufficient right-of-way/easement to construct the improvements and a traffic signal at this intersection would have the potential to increase in accidents rather than decrease.

The Little Colorado River Tribal Park is located along the west side of US 89 for approximately 30 miles, 14 miles beyond the limits of the project. It is not feasible and prudent to avoid the Little Colorado River Tribal Park by constructing the intersection on a new alignment to the west because the park extends to the eastern boundary of the Grand Canyon National Park, another Section 4(f) resource. It is not feasible and prudent to avoid the Little Colorado River Park by constructing the improvement on a new alignment to the east because the new location would result in substantial costs and environmental impacts. Shifting the intersection on a new alignment further to the east would adversely impact the planned commercial development (Shadow Mountain Native American Complex Project) and the series of landforms that parallel the existing highway. To avoid the planned commercial development and the landforms, the alignment would have to move approximately 0.5 further to the east and would result in substantial increase in construction costs, right-of-way/easement requirements, and disturbance to previously undisturbed terrain.

With the implementation of the Standard Diamond Traffic Interchange Alternative, sound levels would range from between 57 to 63 decibels and would not cause proximity impacts on the use and visitor expectation of the park. The landscape character would substantially change as a result of the proposed improvements because of the footprint of the traffic interchange. The change in the setting would not detract from or impair the intended use of the park. There are no designated access points from this portion of US 89 that connect to the park, therefore, there would not be no impact on access.

The Standard Diamond Traffic Interchange Alternative is both prudent and feasible because although it would require approximately 6.6 acres (0.00002 percent) of park land, it would achieve separation of traffic while maintaining uninterrupted through traffic on US 89, accommodate potential future development at the intersection, reduce the potential for traffic conflicts, and better meets driver expectations on US 160 westbound-to-southbound movement since drivers no longer have to stop after rounding the curve on approach to US 89.



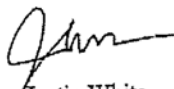
Mr. Ray Russell
Page 3

ADOT and FHWA would implement measures to minimize harm to the Little Colorado River Tribal Park. These measures include bridge structures that would be colored with Navajo Nation approved coloring agent and/or patterned or textured to blend with the natural surroundings, colors, patterns, or textures to be used on concrete surfaces would be coordinated with the Navajo Nation.

A "use" of a Section 4(f) resource (such as publicly owned public parks and recreation lands), as defined in 23 Code of Federal Regulations (CFR) § 771.135(p), occurs when such land is incorporated into a transportation facility. As such we want to make sure that the Navajo Nation Parks and Recreation Department concurs with our assessment of impact that the construction of the new traffic interchange would not interfere with the intended uses of the park. We understand that Navajo Nation Parks and Recreation Department needs to decide on a case-by-case basis the use of the Little Colorado River Tribal Park and would ask your concurrence on the incorporation of Park land into a transportation facility by signing below for this use and returning a copy of this letter to me via fax at 928-774-0784.

Please don't hesitate to call me at 928-779-7528. Your assistance is appreciated.

Sincerely,



Justin White
Environmental Planner
Environmental and Enhancement Group
1801 S. Milton Rd.
Flagstaff, AZ 86001


Navajo Nation Parks and Recreation Department

4/21/05
Date

cc:
Steve Thomas, FHWA
Tom Deitering, FHWA
John Harper, ADOT Flagstaff District
Tami Wollaston, ADOT Presdesign
Diane Simpson-Colebank, Logan Simpson Design Inc

Enclosures





**THE
NAVAJO
NATION**

P.O. Box 9000 • WINDOW ROCK, ARIZONA • 86515

PRESIDENT
JOE SHIRLEY, Jr.
VICE PRESIDENT
FRANK J. **DAYISH, Jr.**

31 March 2005

File#05ADOT02

Justin White, Environmental Planner/Wildlife Biologist
Arizona Department of Transportation
1801 S Milton Rd
Flagstaff, AZ 86001

SUBJECT: US 89 (ANTELOPE HILLS TO JCT. US 160)
PROJECT NO. 0-089-C-200
TRACS NO. 89 CN 441 H5172

Mr White:

The following information on species of concern¹ is provided in response to your 31 January 2005 request concerning the subject project, which consists of proposed widening of the US 89 roadway to allow for an increase in traffic. Improvements would also modify the main intersections, provide improved opportunities for pedestrians to cross the roadway, and reduce traffic conflicts at turnout locations. Project activities would primarily occur within the existing 400-foot-wide (200 feet on each side of the centerline) ADOT right-of-way.

Each 7.5-minute quadrangle containing project boundaries is addressed separately below. For potentially occurring species these species lists are quadrangle-specific rather than project-specific. Potential for species has been determined primarily on quadrangle-wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project site(s).

A total of twenty (20) species both known and/or potential are included in this response. They are:

1. Antilocapra americana (Pronghorn); NESL group 3
2. Aquila chrysaetos (Golden Eagle); NESL group 3; MBTA; EPA
3. Buteo regalis (Ferruginous Hawk); NESL group 3; MBTA
4. Catostomus discobolus (Bluehead Sucker); NESL group 4
5. Cinclus mexicanus (American Dipper); NESL group 3; MBTA
6. Empidonax traillii extimus (Southwestern Willow Flycatcher); NESL group 2; ESA endangered; MBTA
7. Falco peregrinus (Peregrine Falcon); NESL group 4; MBTA

¹"Species of concern" include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate or NESL group 4 status; please be aware of these species during surveys and inform the NFWF of observations. Documentation that these species are more numerous or widespread than currently known, and addressing these species in project planning and management is important for conservation and may contribute to ensuring they will not be uplisted in the future. Species without ESA or NESL legal protection (e.g., NESL group 4 species) are only included in responses on a regular basis and may not be included in this response. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

Department of Fish & Wildlife – Natural Heritage Program, P.O. Box 1480, Window Rock, AZ 86515
Phone (928)871-6472 or 6451 Fax (928)871-7603

- 8 Gila cypha (Humback Chub); NESL group 2; ESA endangered
- 9 Haliaeetus leucocephalus (Bald Eagle); ESA threatened; MBTA; EPA
- 10 Lampropeltis triangulum (Milk Snake); NESL group 4
- 11 Mustela nigripes (Black-footed Ferret); NESL group 2; ESA endangered
- 12 Rana pipiens (Northern Leopard Frog); NESL group 2
- 13 Waterfowl and shorebirds
- 14 Xyrauchen texanus (Razorback Sucker); NESL group 2; ESA endangered
- 15 Amsonia peeblesii (Peebles Blue-star); NESL group 4
- 16 Amsonia tomentosa var stenophylla (narrowleaf blue star)
- 17 Astragalus sophoroides (Painted Desert Milk-vetch); NESL group 4
- 18 Errazurizia rotundata (Round Dunebroom); NESL group 4
- 19 Pediocactus peeblesianus var fickeiseniae (Fickeisen Plains Cactus); NESL group 3; ESA candidate
- 20 Phacelia welshii (Welsh Phacelia); NESL group 4

CAMERON SOUTH, AZ 7.5-MINUTE QUADRANGLE

Project Location: MP 459-466

Known to occur within one mile of the project site:

- 1 Lampropeltis triangulum
- 2 Phacelia welshii
- 3 Amsonia peeblesii

Known to occur within three miles of the project site:

- 1 Rana pipiens

Species of concern with potential to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

- 1 Antilocapra americana
- 2 Aquila chrysaetos
- 3 Buteo regalis
- 4 Catostomus discobolus
- 5 Cinclus mexicanus
- 6 Empidonax traillii extimus
- 7 Falco peregrinus
- 8 Haliaeetus leucocephalus
- 9 Mustela nigripes
- 10 Waterfowl
- 11 Pediocactus peeblesianus var fickeiseniae

CAMERON NORTH, AZ 7.5-MINUTE QUADRANGLE

Project Location: MP 467-MP 475

Known to occur within one mile of the project site:

- 1 Astragalus sophoroides

Species of concern with potential to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

- 1 Antilocapra americana
- 2 Aquila chrysaetos
- 3 Buteo regalis
- 4 Cinclus mexicanus

- 5 Empidonax traillii extimus
- 6 Falco peregrinus
- 7 Gila cypha
- 8 Haliaeetus leucocephalus
- 9 Mustela nigripes
- 10 Rana pipiens
- 11 Waterfowl and shorebirds
- 12 Xyrauchen texanus
- 13 Amsonia peeblesii

SHADOW MOUNTAIN WELL, AZ 7.5-MINUTE QUADRANGLE

Project Location: MP 475- MP 487

Known to occur within one mile of the project site:

- 1 Cymopterus megacephalus
- 2 Astragalus sophoroides

Species of concern with potential to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

- 1 Aquila chrysaetos
- 2 Buteo regalis
- 3 Empidonax traillii extimus
- 4 Mustela nigripes
- 5 Astragalus sophoroides
- 6 Errazurizia rotundata

Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Potential for Puccinellia parishii should be evaluated if wetland conditions exist that contain white alkaline crusts

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts ⁴ Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (David Mikesic) for animals at 871-7070, and Botanist (Daniela Roth) for plants at (928) 523-8445. Questions regarding biological evaluation should be directed to Rita Whitehorse-Larsen (Environmental Reviewer) at 871-7060.

Potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps

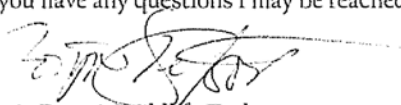
⁴ Available upon request free of charge by contacting Data Manager at 871-6489

are available for examination at the NFWD's Natural Heritage Program (NHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NHP). The NHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation.

The information in this report was identified by the NFWD's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is strongly recommended. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NFWD's information is continually updated, any given information response is only wholly appropriate for its respective request.

An invoice for this information is attached.

If you have any questions I may be reached at (928) 871-6472.



Sonja Detsoi, Wildlife Tech.
Natural Heritage Program
Department of Fish and Wildlife

xc: file/chrono

2006 8 1 9 34

DISTRICT III COUNCIL WESTERN NAVAJO AGENCY

Bodaway/Gap Chapter Cameron Chapter Coalmine Canyon Chapter To'Nanees'Dizi Chapter

Kenneth Nez, President

Jack Colorado, Vice President

Louise Kerley, Secretary

RESOLUTION OF DISTRICT THREE COUNCIL OF THE WESTERN NAVAJO AGENCY

District III Hereby Approving and Urging the Arizona Department of Transportation to Plan, Develop and Fund the Highway 89 and Highway 160 East Past Tuba City through Rare Metal into a Four (4) Lane Highway to Address the Increasing Traffic flow through mentioned Road Route and to Include this request in future 5 years proposed Roads Project for State and Tribal Route Roads

WHEREAS:

1. The District Three Council of Western Navajo Agency is a recognized governmental entity of the Navajo Nation Government; and
2. The District Three Council of Western Navajo Agency has the authority to review all matters affecting the District Three chapter communities and make appropriate recommendations to the Navajo Nation Government, Federal, State, and Local agencies for appropriate actions; and
3. The District Three Council of the Western Navajo Agency is urging the Arizona Department of Transportation to Plan, Develop and Fund the a Four (4) Lane Highway and requesting the Western Navajo Agency Bureau Of Indian Affairs (B.I.A.) Roads to make frequent follow ups; and
4. The Communities of District Three has experienced an increased Traffic Flow through Highway 89 from Flagstaff, Arizona through Page, Arizona, the routes extend through Navajo Nation and Coconino County; and
5. The District Three is also addressing Highway 160 which also has an increase of Traffic Flow through Navajo Nation communities adjacent to Highway 89, Highway 160 extends from Highway 89 through Tuba City, Arizona, Kayenta, Arizona to Shiprock, New Mexico; and
6. The increase of Traffic flow through Highway 89 have several two lane then converts to a single lane, the Arizona Department of Transportation has repaired and maintained the roads which requires every 5 years or more to do minor road construction; and

RESOLUTION: DISTRICT III COUNCIL: District III Hereby Approving and Urging the Arizona Department of Transportation to Plan, Develop and Fund the Highway 89 and Highway 160 East Past Tuba City through Rare Metal into a Four (4) Lane Highway to Address the Increasing Traffic flow through mentioned Road Route and to Include this request in future 5 years proposed Roads Project for State and Tribal Route Roads 2


7. For the safety of commuters of Flagstaff, Arizona, Page, Arizona and the State of Utah, and District Three Residents who travel on Highway 89 on a daily basis for business or personal trips it would be in the best interest to construct a four lane highway from Flagstaff at the base of the summit to Page, Arizona; and
8. The total livelihood of Western Navajo Agency District III which includes: Bodaway/Gap, Cameron, Coalmine Canyon Chapter and Tuba City (Tohnanees Dizi) chapter; and
9. The District III chapters of the Navajo Nation Government finds Route road within the District III Boundaries a possibility of future paved road expansion, currently the route is maintained by Arizona Department of Transportation.

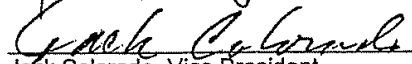
NOW, THEREFORE, BE IT RESOLVED THAT:

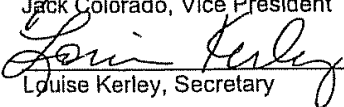
1. The District Three Council, hereby, Approves and Authorizes and Urging the Arizona Department of Transportation to Plan, Develop and Fund the Highway 89 and Highway 160 East Past Tuba City through Rare Metal into a Four (4) Lane Highway to Address the Increasing Traffic flow through mentioned Road Route and to Include this request in future 5 years proposed Roads Project for State and Tribal Route Roads

CERTIFICATION

We, hereby, certify that the foregoing resolution was duly considered by the District Three Council at a duly called meeting at Cameron Chapter, (Coconino County) Arizona at which a quorum was present and that same was passed by a vote of 11 in favor, 00 opposed, and 00 abstained on this 10th day of April 2005.


Kenneth Nez, President


Jack Colorado, Vice President


Louise Kerley, Secretary

Motion By: Harry J. Goldtooth

Second By: Marie Lane Williams

James Adakai, President
Thomas L. Cody, Vice-President
Martha Tate, Secretary



Marissa Greeson, Senior Prog. & Prog. Specialist

WESTERN NAVAJO AGENCY COUNCIL

P.O. Box 35

Tele: (928) 283-3340

Tuba City, Arizona 86045

Fax: (928) 283-3345

WESTERN NAVAJO AGENCY COUNCIL MEETING

June 25, 2005 @ 10:00 AM, Leupp, (Arizona) Navajo Nation

I PRELIMINARIES

- | | |
|---|--|
| a. Meeting called to order at _____ AM. | Mr. James Adakai, President |
| b. Invocation | Mr. Edison Wauncka |
| c. Announcements/Recognition of Guest | Mr. James Adakai |
| d. Review and Adopt Agenda | Mr. Thomas L. Cody, Vice-President |
| Motion: _____, 2 nd . | Vote: In favor: _____, Oppose: _____, Abstentions: _____ |
| e. Review and Adopt last meeting minutes. | Ms. Martha Tate, Secretary |
| Motion: _____, 2 nd . | Vote: In favor: _____, Oppose: _____, Abstentions: _____ |

II NEW BUSINESS

- a. Recommending the 20th Navajo Nation Council Reconsider the 19th Council of the Navajo Nation Resolution #CN-69-02, "Amending Title 1 of the Navajo Nation Code to Recognize the Fundamental Laws of the Dine and Other Related Action. Sponsored By: LeChee Chapter
- b. Authorizing and Approving the Selection of Teddy Bedomie, Evelyn Acothley and Bobby Robbins as an Alternate as the Representative for Roads Committee on the Western Navajo Agency Roads Committee. Sponsored By: Cameron Chapter
- c. Authorizing and Approving the Selection of Mr. Joe Yazzie and Mr. Eddie Kee Yazzie as the District Five Representative and Ms. Rosita A. Kelly as the Alternate to serve on the Western Navajo Agency Roads Committee. Sponsored By: Keith Begay, President, District Five Council
- d. Recommending to the three branches of Navajo Nation government to eliminate all administrative leave practices for tribal staff, which will assist to address the tribal budget deficit, more importantly to maintain the high level of productivity of service to our Navajo people at a consistence level. Sponsored by District II Council (Inscription House Chapter)
- e. Requesting the Intergovernmental Relations Committee of the Navajo Nation Council to consider and approve the Plan of Operation for the Western Navajo Agency Council Pursuant to 26 N.N.C. Section 103 (D)(4). Sponsor by: Martha Tate
- f. Requesting Speaker Lawrence Morgan, the Navajo Nation Council and President Joe Shirley, Jr. to support the Leupp Chapter and other Western Navajo Nation Chapters as they seek to increase the use of the C-aquifer for their domestic, livestock, commercial and industrial use. Sponsored By: Leupp Chapter
- g. Recommending to the Navajo Nation Tax Commission of the Navajo Nation Council, Budget and Finance Committee of the NNC, Human Services Committee of the NNC, Economic Development Committee of the NNC, and the Intergovernmental Relations Committee of the NNC, the Navajo Nation Council and the President of the Navajo Nation to implement a feasibility study on the Navajo Nation Income Tax to generate funds; in addition, the said funds generated to be dedicated to increase direct field services; furthermore, to address the Navajo Nation fund deficit each fiscal year. Sponsored by District II Council

- h. Supporting the Amendment to the Navajo Nation Road Fund Management Plan to include the Allocation of Funds to purchase Road Maintenance Equipment by the Navajo Nation Chapters. Sponsored By: Herman Tso, President, District One Council
- i. The Western Navajo Agency Council respectfully requests for the Navajo Nation Council to Approve and Support the Navajo Sovereignty in Education Act of 2005, Amending Title 10, Education Code of the Navajo Nation Code. Sponsored By: Navajo Division of Dine' Education
- j. Opposing the Amendments to Title 10, Education Code of the Navajo Nation, "the Navajo Sovereignty in Education Act of 2005". Sponsored By: Shonto Community Governance
- k. Requesting a letter of Support for Graduate Student Wendy T. Hunt, From the Western Agency Council to Administer a Qualitative Questionnaire to Vocational Agricultural Students and Instructor at Kayenta - Monument Valley High School. Sponsored By: Windy T. Hunt, Waterflow, NM
- l. Supporting the Release of Taxation by the State of Arizona for Customer of Telecommunications Companies Conducting Business on the Navajo Nation. Sponsored By: Herman Tso, President, District One Council - Western Navajo Agency
- m. Recommending to the Navajo Nation Council and Administration for the Allocation of Funds to Pay Chapter Officials Stipend at the Rate of \$400.00 per meeting for the Period of FY 2006 - 2009. Sponsored By: Herman Tso, President, District One Council - Western Navajo Agency
- n. Supporting and Recommending the Implementation of the Navajo Nation Youth Risk Behavior Survey to Establish a Coordinated Navajo Nation School Health Plan. Sponsored By: Ojato Chapter
- o. Strongly opposing the Bureau of Indian Affairs' 2007 Budget Request to divert \$3,489,000.00 from ISEP Funding to proposed Education Program Management Positions. Sponsored By: Shonto Community Governance
- p. Approving and Supporting the Diabetes Prevention Program of Tuba City Regional Health Care Corporation. Sponsored By: TCRHC staff
- q. Supporting and Amending the Navajo Nation Fiscal Year 2005 Budget by making Funds Appropriated is Prior Fiscal Year for Emergency Drought Purposes available for Expenditure for Immediate Chapter/Needs/Purposes. Sponsored By: Shonto Community Governance
- r. District III Hereby Approving and Urging the Arizona Department of Transportation to Plan, Develop and Fund the Highway 89 and Highway 160 East Past Tuba City through Rare Metal into a Four(4) Lane Highway to Address the Increasing Traffic flow through mentioned Road Route and to Include this request in future 5 years proposed Roads Project for State and Tribal Route. Sponsored By: Cameron Chapter
- s. Supporting the Navajo Land Department and Native American Housing Assistance & Self-Determination Act of 1996, As Amended (NAHASDA) in Continue to Provide Services of Archaeological Clearance, Reviews, and Surveying of the Homesite Lease. Sponsored By: Tonalea Chapter

II. Reports:

- a. President Joe Shirley, Jr., Navajo Nation
- b. Speaker Lawrence Morgan, Navajo Nation Council
- c. Herb Yazzie, Chief Justice, Office of Chief Justice
- d. Walter Phelps, Liaison, Office of Congressman Rick Renzi
- e. Arbin Mitchell, Acting Division Director, Division of Community Development
- f. Stanley Yazzie, Board Member, Navajo Oil and Gas Commission
- g. Edison Wauneka, Director, Navajo Election Office
- h. Kenneth Person, Executive Director, Division of General Services

III. Adjournment

WESTERN NAVAJO AGENCY COUNCIL MINUTES OF THE MEETING

at

June 25, 2005 Leupp, (Arizona) Navajo Nation

I PRELIMINARIES

- a. Meeting called to order at 10:43 AM. By Mr. James Adakai, President
- b. Invocation by Mr. Edison Wanneka
- c. Announcements/Recognition of Guest
Ann Kirkpatrick, District II Representative
Herb Yazzie, Chief Justice on the Navajo Nation (Oral Report to the membership)
Jim Store - Leupp Chapter President
- d. Review and Adopt Agenda Mr. Thomas L. Cody, Vice-President
Motion by Frank Bilagody, 2nd by Jonathan Nez, Vote: In favor: 43, Oppose: 0, Abstentions: 0.
Additions to the WNAC Agenda:
 1. Ernie Manheimer requests to add a resolution for the Northern Arizona Food Bank
 2. Request for combination of WNAC # 175-05-02 & #175-05-03
 3. Request to have the Reports section to be completed first, then the rest of the agenda.
 4. Harry Brown requests to address the WNA Fair, the WNA Fair Board and equal distribution of profits from WNA Fair.
 5. Herman Tso requests to add resolution from District One
 6. Larry Goodman requests to add to agenda, 2 resolutions
- e. Review and Adopt last meeting minutes. Ms. Martha Tate, Secretary
Motion: Harry Brown moves to defer to the next WNAC meeting, 2nd by Alice White, Vote: In favor: 38, Oppose: 1, Abstentions: 4.

II NEW BUSINESS

- a. WNAC Resolution #175-05-01: Recommending the 20th Navajo Nation Council Reconsider the 19th Council of the Navajo Nation Resolution #CN-69-02, "Amending Title 1 of the Navajo Nation Code to Recognize the Fundamental Laws of the Dine and Other Related Action. Sponsored By: LeChee Chapter Willie Begay moves to recall resolution 175-05-01, second by Alice M. White, IN FAVOR: 35 Approved, 2 Opposed, 7 Abstained. Frank Bilagody asked for clarification, this resolution should be under old business. Frank Bilagody moves to approved resolution #175-05-01, second by Mable Dempsy Charley. In Favor: 26, Opposed: 6, Abstained: 7 Resolution passed.
- b. WNAC Resolution #175-05-02: Authorizing and Approving the Selection of Teddy Bedonie, Evelyn Acothley and Bobby Robbins as an Alternate as the Representative for Roads Committee on the Western Navajo Agency Roads Committee. Sponsored By: Cameron Chapter Motion made Kenneth Nez to approve
- c. WNAC Resolution #175-05-03: Authorizing and Approving the Selection of Mr. Joe Yazzie and Mr. Eddie Kee Yazzie as the District Five Representative and Ms. Rosita A. Kelly as the Alternate to serve on the Western Navajo Agency Roads Committee. Sponsored By: Keith Begay, President, District Five Council
- d. WNAC Resolution #175-05-04: Recommending to the three branches of Navajo Nation government to eliminate all administrative leave practices for tribal staff, which will assist to address the tribal budget

deficit, more importantly to maintain the high level of productivity of service to our Navajo people at a consistence level. Sponsored by District II Council (Inscription House Chapter)

Martha Tate presented the background of the resolution. Giving free monies to the NN employees by using administrative leave practices. Eliminate such practices this creates a drain on the NN resources. NN needs to be accountable for our limited resources. Local residents that attend to business in W/R face difficulties when offices are closed during holidays. Harry Williams asked for clarification on how much funds are actually depleted from this practice. He also stated that there are duplication of "holidays", this should also be addressed.

Motion: Larry Goodman Second: Yvonne Bigman VOTE: 29 Approved, 8 Opposed, 1 Abstained.

- e. WNAC Resolution #175-05-05: Requesting the Intergovernmental Relations Committee of the Navajo Nation Council to consider and approve the Plan of Operation for the Western Navajo Agency Council Pursuant to 26 N.N.C. Section 103 (D)(4). Sponsor by: Martha Tate/James Adakai

Motion: Harry Goldtooth, Second: Louise Curley VOTE: 30 Approved, 4 Opposed, 10 Abstained

Recommendations: Albert Bailey requested for copies of plan of operation. Larry Goodman and Roy Laughter stated that this resolution can be amended and presented to WNAC again.

- f. WNAC Resolution #175-05-06: Requesting Speaker Lawrence Morgan, the Navajo Nation Council and President Joe Shirley, Jr. to support the Leupp Chapter and other Western Navajo Nation Chapters as they seek to increase the use of the C-aquifer for their domestic, livestock, commercial and industrial use. Sponsored By: Leupp Chapter Resolution background given by Thomas Cody of Leupp Chapter, the channeling of water from the C-Aquifer should be first given to Navajo Nation residents for household use, livestock use and other needs as noted before it is given to the Peabody Coal Company for coal slurry usage.

Motion: Frank Bilagody Second: Kenneth Nez VOTE: 45 Approved, 0 Opposed, 1 Abstained.

- g. WNAC Resolution #175-05-07: Recommending to the Navajo Nation Tax Commission of the Navajo Nation Council, Budget and Finance Committee of the NNC, Human Services Committee of the NNC, Economic Development Committee of the NNC, and the Intergovernmental Relations Committee of the NNC, the Navajo Nation Council and the President of the Navajo Nation to implement a feasibility study on the Navajo Nation Income Tax to generate funds; in addition, the said funds generated to be dedicated to increase direct field services; furthermore, to address the Navajo Nation fund deficit each fiscal year. Sponsored by District II Council Resolution background presented to public by Martha Tate. MOTION: Frank Bilagody SECOND: Kenneth Nez VOTE: 40 Approved, 0 Opposed, 4 Abstained.

- h. WNAC Resolution #175-05-08: Supporting the Amendment to the Navajo Nation Road Fund Management Plan to include the Allocation of Funds to purchase Road Maintenance Equipment by the Navajo Nation Chapters. Sponsored By: Herman Tso, President, District One Council MOTION: Jonathan Nez, SECOND: Evelyn Acothley VOTE: 53 Approved, 0 Opposed, 0 Abstained. Frank Bilagody recommended that funds from the fuel excise tax be used to purchase heavy equipment for usage at local chapters. Willie Begay stated that the main concern on the purchase of heavy equipment would be the maintenance of the equipment.

- i. WNAC Resolution #175-05-09: The Western Navajo Agency Council respectfully requests for the Navajo Nation Council to Approve and Support the Navajo Sovereignty in Education Act of 2005, Amending Title 10, Education Code of the Navajo Nation Code. Sponsored By: Navajo Division of Dine' Education/Kenneth Nez of Coalmine Chapter, also an employee of Dine Education. The tribal education department needs direction on how to operate the education department. Question raised by Yvonne Bigman on resolution items (i) & (j), she requests for both sponsors of each resolution present their resolutions. MOTION: Frank Bilagody SECOND: Louise Curley VOTE: 46 Approved, 6 Opposed, 4 Abstained.

LUNCH provided by Leupp Chapter, prayer by Dean Bahe. Lunches given to WNAC members as meeting is continued.

Welcome Address by Thomas Cody of Leupp Chapter. Introduced Leupp Chapter Officials and Council Delegates.

- j. WNAC Resolution #175-05-10: Opposing the Amendments to Title 10, Education Code of the Navajo Nation, "the Navajo Sovereignty in Education Act of 2005". Sponsored By: Shonto Community Governance Robert K. Black Jr. of Shonto Community Governance gave a brief history of the previous meetings with the Title 10 Taskforce on May 18th, 27th and June 14th DODE through email went back to the original language of the Title 10. The Native American Grant School Association and other grant/charter association then opposed the proposed Title 10 Education Code of the Navajo Nation. Phil Blue of Ganado Chapter gave an oral history of the "Title 10 - Education Code of the NN". Resolution not addressed due to passage of resolution (i) which supports Title 10.
- k. WNAC Resolution #175-05-11: Requesting a letter of Support for Graduate Student Wendy T. Hunt, From the Western Agency Council to Administer a Qualitative Questionnaire to Vocational Agricultural Students and Instructor at Kayenta - Monument Valley High School. Sponsored By: Windy T. Hunt, Waterflow, NM. NOT in attendance, therefore resolution not addressed.
- l. WNAC Resolution #175-05-12: Supporting the Release of Taxation by the State of Arizona for Customer of Telecommunications Companies Conducting Business on the Navajo Nation. Sponsored By: Herman Tso, President, District One Council - Western Navajo Agency.
MOTION: Frank Bilagody SECOND: Willie Begay VOTE: 45 Approved, 1 Opposed, 0 Opposed.
- m. WNAC Resolution #175-05-13: Recommending to the Navajo Nation Council and Administration for the Allocation of Funds to Pay Chapter Officials Stipend at the Rate of \$400.00 per meeting for the Period of FY 2006 - 2009. Sponsored By: Herman Tso, President, District One Council - Western Navajo Agency
MOTION: Harry Goldtooth SECOND: Freida Sage VOTE: 46 Approved, 2 Opposed, CNV
- Amendment to the main motion, moved to change chapter officials stipend amount to \$500.00, motion made by Larry Goodman, second by Frieda Sage. VOTE: 46 Approved, 2 Opposed, 1 Abstained.
Chester Claw recommends establishing a "contract" with the Navajo Nation Council for the chapter officials stipend. Roy Laughter
- n. WNAC Resolution #175-05-14: Supporting and Recommending the Implementation of the Navajo Nation Youth Risk Behavior Survey to Establish a Coordinated Navajo Nation School Health Plan. Sponsored By: Oljato Chapter Resolution background presented by James Adakai on behalf of Oljato Chapter. MOTION: Roy Laughter SECOND: Keith A. Begay VOTE: 47 Approved, 0 Opposed CNV
- o. WNAC Resolution #175-05-15: Strongly opposing the Bureau of Indian Affairs 2007 Budget Request to divert \$3,489,000.00 from ISEP Funding to proposed Education Program Management Positions. Sponsored By: Shonto Community Governance Resolution presented by Robert K. Black, Jr. MOTION: Larry Goodman SECOND: Jonathan Nez VOTE: 41 Approved, 0 Opposed, 1 Abstain
- p. WNAC Resolution #175-05-16: Approving and Supporting the Diabetes Prevention Program of Tuba City Regional Health Care Corporation. Sponsored By: TCRHC staff. Evelina Yazzie-Maho, Diabetes Prevention Program Coordinator of TCHCC presented the resolution. MOTION: Marie Williams SECOND: Robert Johnson VOTE: 41 Approved, 1 Opposed, 1 Abstained.
- q. WNAC Resolution #175-05-17: Supporting and Amending the Navajo Nation Fiscal Year 2005 Budget by making Funds Appropriated in Prior Fiscal Year for Emergency Drought Purposes available for Expenditure for Immediate Chapter/Needs/Purposes. Sponsored By: Shonto Community Governance MOTION: Frank Bilagody SECOND: Robert Johnson VOTE: 45 Approved, 0 Opposed, 1 Abstained.
- r. WNAC Resolution #175-05-18: District III Hereby Approving and Urging the Arizona Department of Transportation to Plan, Develop and Fund the Highway 89 and Highway 160 East Past Tuba City through Rare Metal into a Four(4) Lane Highway to Address the Increasing Traffic flow through

mentioned Road Route and to include this request in future 5 years proposed Roads Project for State and Tribal Route. Sponsored By: Cameron Chapter, resolution review made by Teddy Bedonie. MOTION: Jack Colorado SECOND: Harry Goldtooth VOTE: 46 Approved, 0 Opposed, 0 Abstained

- s. WNAC Resolution #175-05-19: Supporting the Navajo Land Department and Native American Housing Assistance & Self-Determination Act of 1996, As Amended (NAHASDA) in Continue to Provide Services of Archaeological Clearance, Reviews, and Surveying of the Homesite Lease. Sponsored By: Tonalea Chapter, resolution presented by Steven Arizona. MOTION: Robert Johnson SECOND: Herman Daniels VOTE: 40 Approved, 0 Opposed, 0 Abstained
- t. WNAC Resolution #175-05-20: Requesting the Navajo Nation Council, Chapter Officials, Grazing Officers to support Northern Arizona Food Bank with Annual funding in share cost in serving the Navajo Nation with food, firewood and other projects that are available through the Northern Arizona Food Bank together with churches, chapters and ministries in bettering spiritual, spiritual, mental, physical health in the Navajo Nation. Resolution presented by Ernie Manheimer and Terry Ketchum of NAFB. NAFB assists with over 2 million dollars of social-economic aid. NAFB has assisted with drought emergencies, firewood and blankets. MOTION: Ernest Goatson SECOND: Robert Johnson VOTE: 44 Approved, 0 Opposed, 0 Abstained.
- u. WNAC Resolution #175-05-21: Requesting to the President of the Navajo Nation & TCDC to re-evaluate our Western Navajo Agency's LGSC personnel to fulfill it responsibilities in better offering our chapters who greatly needed T.A. for financial accounting which affects our community services coordinators' roles & responsibilities. Sponsored by Leupp Chapter NO sponsor in attendance.
- v. WNAC Resolution #175-05-22: Requesting and recommending to preserve all Navajo Nation field and outreach programs at Fiscal Year 2005 level; such as, Social Services, Senior Citizen, Community Health, Law Enforcement, and other localizes program for direct benefit of grass-root population of the Navajo Nation. Sponsored by District II. Larry Goodman of Inscription House MOTION: Rosita Kelly SECOND: Lorraine Nolee VOTE: 43 Approved, 0 Opposed, 0 Abstained.
- w. WNAC Resolution #175-05-23: Recommending to the Budget and Finance Committee of the Navajo Nation Council, the Speaker of the Navajo Nation Council and the Navajo Nation Council to review and amend the current Appropriation Action Legislation, which will provide a more equitable distribution of funds; such as Navajo Sales Tax, Fuel Excise Tax and not limited to any other funds generated by the Navajo Nation that are appropriated to local chapters of the Navajo Nation for various projects and programs. Sponsored by District II. MOTION: Rosita Kelly SECOND: Lorraine Nolee VOTE: 43 Approved, 0 Opposed, 0 Abstained.

II. Reports: Motion made by Willie Begay to accept reports made, second by Harry Goldtooth. In Favor: 48, 0 Opposed, 0 Abstained.

- a. President Joe Shirley, Jr., Navajo Nation
- b. Speaker Lawrence Morgan, Navajo Nation Council, in attendance and made oral report to the membership.
- c. Herb Yazzie, Chief Justice, Office of Chief Justice, made oral report at beginning of meeting.
- d. Walter Phelps, Liaison, Office of Congressman Rick Renzi, Agency Council report made in Navajo & handout of report was given to WNAC members.
- e. Arbin Mitchell, Acting Division Director, Division of Community Development, made oral report at beginning of meeting
- f. Stanley Yazzie, Board Member, Navajo Oil and Gas Commission, in attendance and made oral report to the members. Copies of his report was disseminated to all.
- g. Edison Wauneka, Director, Navajo Election Office, made oral report at beginning of meeting.
- h. Kenneth Person, Executive Director, Division of General Services
- i. Joe Dayzie, Navajo Election Office Representative, in attendance made oral report
- j. Ruth Watson, Navajo Election Office Representative, in attendance at this meeting.